
**ELIGIBILITY AND ASSISTANCE STANDARDS
AFDC-FC AND AAP PROGRAMS**

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CHAPTER 45-100 AFDC-FC PROGRAM PURPOSE

The purpose of the Aid to Families with Dependent Children--Foster Care Program is to provide financial assistance for those children who are in need of substitute parenting and who have been placed in foster care.

45-101 DEFINITIONS 45-101

The following definitions shall apply to the terms used in the AFDC-FC Program:

- (a) (1) AFDC-FC means Aid to Families with Dependent Children--Foster Care and is the aid provided on behalf of needy children in foster care who meet the eligibility requirements as specified in department regulations and in applicable state and federal laws.

- (2) Approved Home means one of the following:
 - (A) The home of a relative which is approved as meeting the same standards as licensed foster family homes as set forth in Foster Family Home Regulations, California Code of Regulations, Title 22, Division.6, Chapter 9.5, Article 3.

 - (B) A family home which is the home of a nonrelative extended family member which has been approved as meeting the same standards as licensed foster family homes as set forth in Foster Family Home Regulations, California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3.

 - (C) A family home which is used only for the placement of an Indian child(ren); and which has been licensed, approved or specified by that Indian child's tribe.

- (3) Assessment means the written document in the services case record which states the reason necessitating the child's placement into foster care and which identifies the child's problems or needs at the point in time the document is completed.

- (4) Authority for Placement means the legal basis under which a child is residing in foster care placement.

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- (b) Reserved
- (c) (1) Case Plan means "a written document" as defined in Welfare and Institutions Code Section 11400(b) and 45 CFR 1356.21(d).

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- (A) Welfare and Institutions Code Section 11400(b) provides that a case plan means a written document in the services case record which at a minimum specifies how the child's problems or needs identified in the assessment are to be addressed including:
1. The type of home in which the child shall be placed and the appropriateness of the home for meeting the child's needs and
 2. The agency's plan for ensuring that the child, the family and foster care provider receive services, and the appropriateness of the services provided to the child, in order to meet the child's needs while in foster care and to reunify the child with his or her family or, when reunification is not possible, to facilitate an alternative permanent plan.
- (B) 45 CFR 1356.21(d) provides that the case plan:
1. Be a discrete part of the case record which is available to the parent(s) or guardian of the foster child;
 2. Include a discussion of how the plan is designed to achieve a placement in the least restrictive (most family-like) setting available and in close proximity to the home of the parent(s), consistent with the best interest and special needs of the child; and
 3. After October 1, 1983, include a description of the services offered and the services provided to prevent the removal of the child from the home and to reunify the family.

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- (2) "Certified Family Home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.
- (3) Certified Out-of-State Group Home means a facility:
 - (a) Which is located outside of the State of California,
 - (b) Which would meet the definition of group home as defined in Section 45-101(g)(1) were it located within the State of California, and
 - (c) Which has been certified by the Department as meeting the licensure standards required of group homes operated in California or the Department has granted a waiver to a special licensing standard upon a finding that there exists no adverse impact on health and safety.
- (4) Community Care Licensing Agency means the department or a county welfare department authorized by the department to license family homes and group homes in accordance with Title 22, Division 6, of the California Code of Regulations.
- (5) Compact Administrator means an individual designated by the governor as the Administrator of the Interstate Compact on the Placement of Children.
- (6) Court Order means only the judicial determinations specified in either Sections 45-101(c)(7)(A) or (B) and made by the juvenile court or by an Indian Tribal Court as defined in Section 45-101(i)(6). In California, the filing of a petition commences proceedings in a juvenile court. If the petition is not dismissed, the following two categories of judicial orders apply:
 - (A) Detention order means the order issued by the juvenile court pursuant to Welfare and Institutions Code Section 319 or 636 which permits detention of a child pending a jurisdictional hearing to determine whether the child is to be made a dependent or ward of the court. A detention order is limited to 15 judicial days unless continued by the court. A judicial day is a day on which the court is in session, i.e., not a weekend or court holiday.
 - (B) Jurisdictional and Dispositional Orders means the orders issued by the juvenile court which declare the child a dependent or ward of the court and designate to whom the child is to be released.

45-101 **DEFINITIONS** (Continued) **45-101**

- (7) Crisis Nursery means a facility listed in Welfare and Institutions Code Section 11402(h) which is defined as "A licensed crisis nursery as described in Section 1516 of the Health and Safety Code and as defined in subdivision (t) of Section 11400" of the Welfare and Institutions Code.

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11402. Placement requirements for eligibility

"In order to be eligible for AFDC-FC, a child shall be placed in one of the following:

- (h) A licensed crisis nursery, as described in Section 1516 of the Health and Safety Code, and as defined in subdivision (t) of Section 11400."

Welfare and Institutions Code Section 11400(t) defines Crisis Nursery as "a facility licensed to provide short-term, 24-hour non-medical residential care and supervision for children under six years of age who are either voluntarily placed for temporary care by a parent or legal guardian due to a family crisis or stressful situation for no more than 30 days or, except as provided in subdivision (e) of Section 1516 of the Health and Safety Code, who are temporarily placed by a county child welfare service agency for no more than 14 days."

Health and Safety Code Section 1516(c) defines the term "voluntary placement," for the purpose of crisis nurseries as follows: "Voluntary placement," for purposes of this section, means a child, who is not receiving Aid to Families with Dependent Children -Foster Care, placed by a parent or legal guardian who retains physical custody of, and remains responsible for, the care of his or her children who are placed for temporary emergency care, as described in subdivision (a)."

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- (d) (1) Department means the State Department of Social Services.
(2) Detention Order--See definition of "Court Order".
(3) Dispositional Order--See definition of "Court Order".
- (e) (1) Eligible Facility means a home that meets the requirements of the AFDC-FC program and in which an eligible child may be placed.
- (f) (1) Family Home means the family residence of a licensee in which 24-hour care and supervision are provided for children and which is licensed by the appropriate community care licensing agency, or a family residence which is approved and which provides such care and supervision.

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- (2) Family Reunification Services means services provided to the family and the child in foster care placement for the purpose of safely returning the child to his or her family.
 - (3) FFP means federal financial participation and is participation by the federal government in sharing the cost of AFDC-FC payments.
 - (4) Former relative means a person related to the child by birth or adoption by virtue of being one of those persons listed in Section 45-101(r)(1)(A) when legal rights to the child are terminated by the filing of a relinquishment with the Department or by court action.
 - (5) Foster Care means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them and who are in need of temporary or long-term substitute parenting.
 - (6) "Foster Family Agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.
 - (7) Funding Restriction means either that (a) a ceiling is imposed, in accordance with the Adoptions Assistance and Child Welfare Act of 1980 (P.L. 96-272), on federal matching funds under the AFDC-FC Program due to the federal appropriation in Child Welfare Services; or that (b) Congress has appropriated insufficient funds to cover the full federal match of all audited claims submitted to the federal government for payment.
- (g) (1) Group Home shall be defined in accordance with Welfare and Institutions Code Section 11400(h).

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- (A) The term group home is defined in Welfare and Institutions Code Section 11400(h) as follows:

"Group Home' means a nondetention privately operated residential home, organized and operated on a nonprofit basis only, of any capacity, that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code."

1. Health and Safety Code Section 1502(a)(1) states: "'Residential facility' means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual."

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- (B) U.S. Department of Health and Human Services Child Welfare Policy Manual, Section 8.3A.8a, clarifies that a facility that has locked living units, but which is not operated primarily for the detention of children who are determined to be delinquent, may be considered a group home for purposes of claiming AFDC-FC funds. If a facility is not used primarily for the detention of delinquent children, but the facility has some restrictions for the benefit or safety of the child, then the State may pay AFDC-FC on behalf of an otherwise eligible child placed there. However, adding a treatment component to a facility that is used primarily to secure delinquent children, such as a juvenile hall, does not make the facility eligible for AFDC-FC.

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(h) Reserved

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- (i) (1) Indian means a person who is a member of an Indian tribe, or who is an Alaskan native and a member of a Regional Corporation as defined in 43 USC 1606.
- (2) Indian child(ren) means an unmarried person under 18 years of age who is a member of an Indian tribe, or who is eligible for tribal membership and is the biological child of a tribe member.
- (3) Indian child's parent means a biological parent of an Indian child; or an Indian who has lawfully adopted an Indian child. Lawful adoptions include adoptions under tribal law or custom. The term does not include the unwed father when paternity has not been acknowledged or established.
- (4) Indian child's tribe means the Indian tribe in which an Indian child is a member or is eligible for membership; or, in the case of an Indian child who is a member of or is eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts.
- (5) Indian tribe means an Indian tribe, band, nation or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska native village as defined in 43 USC 1602c.
- (6) Indian Tribal Court means a court with jurisdiction over child custody proceedings, as defined under the Indian Child Welfare Act (25 USC Section 1903(12)), and which has been approved by the Secretary of the Interior as meeting the requirements for reassumption of jurisdiction over child custody proceedings, if applicable.

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Most California tribal courts will require approval of the Secretary of the Interior to take jurisdiction over child custody proceedings, regardless of whether the jurisdiction is exclusive or concurrent.

25 USC Section 1903(12) defines "Tribal Court" as a "court with jurisdiction over child custody proceedings, and which is either a Court of Indian Offenses, a court established and operated under the code of custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings."

25 USC Section 1918 sets forth the requirements for reassumption of jurisdiction over child custody proceedings.

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- (7) Infant Supplement is the amount paid to an eligible facility in addition to the AFDC-FC payment for the minor parent for a child living with his/her minor parent.

- (j) (1) Jurisdictional Order--See definition of "Court Order".

- (k) Reserved

- (l) (1) Legal Guardian means the individual appointed permanent or temporary guardian of the person or of the person and estate of a child by a California court pursuant to Probate Code Section 1514 or 2250, or Section 1440 if guardianship was established prior to January 1, 1984; or Welfare and Institutions Code Section 360 or 366.25(e).

- (m) (1) Multidisciplinary Team means a team consisting of members from the local county social services agency, the county mental health agency, the county probation department, the county superintendent of schools office, and other members identified by the county pursuant to Family Code 7911.1(f).

- (n) (1) Nonrelative Extended Family Member means an adult caregiver who has an established familial or mentoring relationship with the child which has been verified by the county welfare department.

- (o) Reserved

- (p) (1) Periodic Review means a review of the child's status which is conducted by the juvenile court, an Indian Tribal court which has jurisdiction over civil actions on an Indian reservation, or an administrative panel. Such review shall include:
 - (A) A determination of the continuing need for placement in foster care;
 - (B) An evaluation of the goals for the placement and the progress towards meeting such goals;
 - (C) A target date for the child's return home or establishment of an alternate permanent placement;
 - (D) For children placed out-of-state, whether the out-of-state placement continues to be the most appropriate placement for the child and continues to be in the child's best interest; and
 - (E) For children placed out-of-state, whether the out-of-state group home continues to meet the requirements of Family Code Section 7911.1(c).

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- (2) Permanent Placement Services means services provided to the child for the purpose of locating and maintaining a placement that can be expected to be permanent, such as adoption, establishment of a legal guardianship or long-term foster care.
- (3) Permanency Planning Hearing means a hearing conducted by the juvenile court or an Indian Tribal court which has jurisdiction over civil actions on an Indian reservation. The purpose of the hearing shall be to establish and maintain a plan for the child's permanent living arrangement, including family reunification, adoption, establishment of a legal guardianship, or long-term foster care. For children placed out-of-state, the court must review whether the out-of-state placement continues to be the most appropriate placement for the child, continues to be in the child's best interests, and whether the out-of-state group home continues to meet the requirements of Family Code Section 7911.1(c).
- (4) Placement Agency means the agency with responsibility for placement and care of an AFDC-FC eligible child.
- (5) Placement and Care means either:
 - (A) The responsibility for the welfare of a child vested in an agency or organization by virtue of such agency or organization having:
 - 1. Been delegated care, custody, and control of a child by the juvenile court,
 - 2. Taken responsibility pursuant to a relinquishment or termination of parental rights on a child.
 - 3. Taken the responsibility of supervising a child detained by the juvenile court pursuant to Welfare and Institutions Code Sections 319 or 636,
 - 4. Signed a voluntary placement agreement for the child's placement; or
 - (B) The responsibility designated to an individual by virtue of his or her having been appointed the child's legal guardian.
- (6) Placement Worker means the individual(s) within the placement agency responsible for the placement, supervision, services case management and provision of services to an AFDC-FC eligible child. This refers to the county welfare department social services worker, county probation officer, or the adoptions worker of a licensed public or private adoption agency or a district adoptions office of the department.

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- (7) Preplacement Preventive Services means services provided to the child and his or her family prior to placement into foster care for the purpose of preventing or eliminating the need for removal.
- (8) Provider means any individual or corporation which provides foster care to a child and can include licensed foster parents, relative caregivers, legal guardians, certified foster parents, and group homes.
- (9) Public Child Care Institution means a publicly-operated, nonsecure child care facility which has a licensed capacity not exceeding twenty-five children and is licensed as a residential community care facility by the department.
- (10) Public Funds means federal, state, and county funds.
- (q) Reserved
- (r) (1) A Relative means:
 - (A) A person related to the child by birth or adoption who is in within the fifth degree of kinship to the child by virtue of being one of the following:
 1. The father, mother, brother, sister, half-brother, half-sister, uncle, aunt, first cousin, first cousin once removed, nephew, niece, or any such person of a preceding generation denoted by the prefixes grand-, great-, or great-great-, or great-great-great.
 2. The stepfather, stepmother, stepbrother or stepsister.
 3. The spouse of any person named in Section 45-101(r)(1)(A)1. or 2. above, even after the marriage has been terminated by death or dissolution.
 - (B) For AFDC-FC purposes, when a parent's rights to a child are terminated by the filing of a relinquishment with the Department or by court action, that parent and his or her relatives are no longer considered to be the child's relatives.

45-101 DEFINITIONS (Continued) 45-101

- (2) Relinquished Child means a child who has been given up for adoption by one or both parents to a licensed public or private adoption agency or to a district adoptions office of the department.

- (s) Reserved

- (t) (1) Termination of parental rights and responsibilities with respect to a child as the result of an order of the court issued under Family Code Section 7800 et. seq., Family Code Section 7660 et. seq., or Welfare and Institutions Code Section 366.26.

- (2) Transitional Housing Placement Facility means a community care facility licensed by the Department as part of the Transitional Housing Placement Program (THPP) which provides transition housing opportunities to foster youth as specified in Welfare and Institutions Code Section 11400(r)(1).

- (u) Reserved

- (v) (1) Voluntary Placement is as defined in Welfare and Institutions Code Section 11400. Voluntary placements which meet the criteria of Welfare and Institutions Code Section 11400 and which occurred on or after January 1, 1983 shall be deemed to meet the requirements of this regulation.

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Welfare and Institutions Code Section 11400 states in part:

"Voluntary Placement" means an out-of-home placement of a minor by (1) the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

HANDBOOK ENDS HERE

- (2) Voluntary Placement Agreement is as defined in Welfare and Institutions Code Section 11400. Voluntary placement agreements which meet the criteria of Welfare and Institutions Code Section 11400 and which were entered into on or after January 1, 1983 shall be deemed to meet the requirements of this regulation.

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Welfare and Institutions Code Section 11400 states, in part:

"Voluntary placement agreement" means a written agreement between either the the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 1502(a)(1), 1505, and 1516, (Senate Bill 855, Chapter 664, Statutes of 2004), Health and Safety Code; Sections 360, 361.2(g), 361.3 (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997 and as further amended by AB 2773, Chapter 1056, Statutes of 1998), 309, 362.7, 366, 366.21, 366.26, 366.3, 727.1, 11400(b), 11400(h), 11400(m), 11400(n), 11400(r), 11401(b), 11401(e), 11402, 11404.2, 11466.24, and 16507.5(b), Welfare and Institutions Code; Sections 7660 et seq., 7800 et seq., and 7911.1, Family Code; Section 2250, Probate Code; 45 CFR 1356.21(d); Public Law 95-608; 25 U.S.C. 1915; and 42 U.S.C. 606.

**AFDC-FC, EA-ANEC, AND AAP PROGRAMS
AFDC-FC ELIGIBILITY**

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45-200 AFDC-FC ELIGIBILITY 45-200

- .1 To be eligible for AFDC-FC, a child shall meet the requirements under either the federal AFDC-FC Program or the state AFDC-FC Program and all requirements in Chapter 45-300 which apply to that child.
 - .11 Federal AFDC-FC Program
 - .111 A child shall meet all general requirements specified in Section 45-201 and all federal requirements specified in Section 45-202.
 - .12 State AFDC-FC Program
 - .121 A child shall meet all general requirements specified in Section 45-201 and all state requirements specified in Section 45-203.
- .2 An infant supplement shall be paid for the care and supervision of a child living with his/her minor parent in the same eligible facility when the minor parent meets either of the requirements in Sections 45-200.11 or .12.
- .3 The payment sections MPP Section 44-206 shall be effective February 28, 1989 and MPP Section 45-302.21 shall be effective March 1, 1989.

45-201 GENERAL AFDC-FC REQUIREMENTS 45-201

- .1 The child shall meet:
 - .11 The age requirements of Chapter 42-100;
 - .111 When a child who is in foster care reaches age 18, the child shall continue to be eligible for AFDC-FC up to age 19, provided all the following conditions are met:
 - (a) The child was receiving AFDC-FC and attending high school or a vocational-technical training program on a full-time basis prior to reaching age 18;
 - (b) The child continues to:
 - (1) Meet the AFDC-FC eligibility requirements of this section;
 - (2) Reside in foster care;

45-201 GENERAL AFDC-FC REQUIREMENTS (Continued) 45-201

- (3) Attend on a full-time basis either a high school or, if he/she has not completed high school, a vocational-technical training program which cannot result in a college degree as specified in Section 42-101.2 provided he/she is reasonably expected to complete either program before reaching age 19. Full-time attendance must be defined and verified by child's school.
 - (c) The child and the placement agency have signed a mutual agreement which documents the continued need for foster care placement. The agreement shall be signed prior to or within the month the child reaches age 18. A mutual agreement shall not be required if the placement is due to a court order which remains in effect or if the child is not capable of making an informed agreement. If the court order is dismissed subsequent to the month in which the child reaches age 18, a mutual agreement must be executed within the month the dismissal occurs.
 - (1) The income maintenance case record shall contain a statement from the placement worker, on the FC 2, which certifies that the mutual agreement or the court order is in the services case record or that the child is not capable of making an informed agreement. This certification shall occur prior to or within the month the child reaches age 18 and at redetermination of the child's AFDC-FC eligibility.
- .12 The property requirements in Chapter 42-200;
- .121 Up to \$10,000 in cash savings is exempt for purposes of determining eligibility and grant amount.
 - (a) Repealed by Manual Letter No. EAS-91-09, effective 5/28/91.
 - (b) Repealed by Manual Letter No. EAS-91-09, effective 5/28/91.
 - (c) Repealed by Manual Letter No. EAS-91-09, effective 5/28/91.

45-201 GENERAL AFDC-FC REQUIREMENTS (Continued) 45-201

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- .122 See Sections 31-002(i)(1), (i)(1)(A), and 31-525 for the definition and description of ILP.

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- .13 The residence requirements in Chapter 42-400;
- .14 The citizenship and alienage requirements in Subchapter 42-430;
- .15 The social security enumeration requirements in Section 40-105.24; and
- .16 The income requirements in Chapter 44-100.
- .161 Pursuant to Section 44-111.261, income and incentive payments earned by a child 16 years of age or older who is participating in the ILP are exempt as income for purposes of eligibility and grant determination when received as part of the ILP written transitional independent living plan.
- (a) Repealed by Manual Letter No. 91-09, effective 5/28/91.
- (b) Repealed by Manual Letter No. 91-09, effective 5/28/91.
- (c) Repealed by Manual Letter No. 91-09, effective 5/28/91.
- .162 There is no limit to the amount exempted under Section 45-201.161.
- .163 Repealed by Manual Letter No. 91-09, effective 5/28/91.

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- .164 See Sections 31-002(i)(1), (i)(1)(A), and 31-325 for the definition and description of ILP.

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45-201 GENERAL AFDC-FC REQUIREMENTS (Continued) 45-201

- .2 The AFDC-FC rate as determined in Chapter 11-400, including amounts for specialized care but not including special need payments, shall constitute the need standard for a child receiving AFDC-FC and shall be greater than the child's net nonexempt income as determined in Chapter 44-100. Income received by the child's parents shall not be used to determine the AFDC-FC aid payment unless the parents make their income and/or income the parents receive on behalf of the child available to meet the child's needs.
- .3 The following child support requirements:
- .31 The county shall provide the local child support agency with the information specified in .311 through .314 below:
- .311 A completed referral form;
- (a) If the child's social worker has determined according to Section 31-503.1 that it is not in the best interest of the child to refer the case to the local child support agency for enforcement, the county shall refrain from referring the case for child support enforcement.
- .312 Any information the county has which indicates that the local child support agency should not proceed with child support enforcement including at least one of the following reasons for good cause:
- (a) an agreement to establish good cause for not cooperating with the local child support agency if one has been completed by either or both of the child's parents; or
- (b) documentation from the child's social worker that referral for child support enforcement would not be in the child's best interest in accordance with Section 31-503;
- .313 Any information regarding the best interest of the child as it pertains to child support issues upon request of the local child support agency;
- .314 Any other forms or information, including a Child Support Questionnaire (CA 2.1), requested by the local child support agency.
- .32 The general requirements of Sections 43-200, 43-201.2 and 43-203 shall be met.
- .4 The following services requirements shall be met:
- .41 The agency with responsibility for placement and care of the child shall:
- .411 Provide preplacement preventive services to children placed into foster care on or after October 1, 1983, and document in the services case record why provision of these services was not successful in maintaining the child with his or her family.

45-201 GENERAL AFDC-FC REQUIREMENTS (Continued) 45-201

- (a) The provision of preplacement preventive services shall not be required when the current authority for placement of the child is either:
 - (1) relinquishment of the child by one or more parents or termination of the parental rights of one or more parents; or
 - (2) nonrelated legal guardianship.

- .412 Develop a written assessment and case plan within 30 days from the date the agency became involved with the child or the date of the child's most recent placement, whichever is later. Where the child is a minor parent and his/her child is living in the same eligible facility, the assessment shall include the minor parent's child.
 - (a) Such assessment and case plan shall be updated in conjunction with the periodic reviews specified in .42 below.
 - (b) Such assessment and case plan for a child living with a nonrelated legal guardian shall be updated no less frequently than once every six months.

- .413 Provide family reunification services or, when return of the child to his or her own family is documented in the services case record as being inappropriate, provide permanent placement services.

- .414 Visitation
 - (a) For children placed in out-of-state or California group homes, visit the child no less frequently than once a calendar month with at least a two-week period between visits.
 - (b) For children placed in any other eligible facility, visit the child no less frequently than once every six months.

- .42 Except for a child living with his or her nonrelated legal guardian, periodic reviews shall be conducted on behalf of the child no less frequently than once every six months from the date of placement into foster care.

- .43 Except for a child living with his or her nonrelated legal guardian, permanency planning hearings shall be conducted on behalf of the child within 18 months of the date of placement into foster care and shall occur no less frequently than once every 12 months following the first hearing throughout the period of foster care placement.
 - (a) Subsequent permanency planning hearings shall not be required for a child who is free for adoption and placed in the adoptive home identified in the previous permanency planning hearing pending finalization of the adoption.

45-201 **GENERAL AFDC-FC REQUIREMENTS (Continued)** **45-201**

- .44 Assessment and placement recommendation
 - .441 Effective March 1, 1999, an assessment and placement recommendation must be made by a multidisciplinary team prior to the placement of a child in an out-of-state group home.
 - .442 For children placed in an out-of-state group home prior to August 19, 1998, an assessment and placement recommendation must be obtained by February 18, 1999.
 - .443 For children placed in an out-of-state group home between August 19, 1998, and February 28, 1999, an assessment and placement recommendation must be obtained no later than 6 months from the date of placement.

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- (a) See Sections 31-066.1 through .6 for guidance on the assessment and placement recommendation process.

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- .45 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158A form which certifies that the above requirements have been met. This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility, and when there is a change in the authority for placement.

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- .46 Division 31 provides further information regarding services requirements.

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- .5 The application requirements in Section 40-100 shall be met.
- .6 A child living with his/her AFDC-FC eligible minor parent in the same eligible facility does not need a separate eligibility determination. The eligibility for the infant supplement is based on the minor parent's AFDC-FC eligibility determination.
- .7 A redetermination of all of the foster child's circumstances which are subject to change shall be completed once every six months.
 - .71 At the time of the six month redetermination, the parent or legal guardian shall complete the "Statement of Facts Supporting Eligibility for Assistance" (CA 2 1/87) or, at county option, the "Statement of Facts Supporting Eligibility for AFDC-Foster Care (FC)" (FC 2). If the parent or legal guardian is unavailable or uncooperative, the placement worker shall complete the "Statement of Facts Supporting Eligibility for AFDC-Foster Care (FC)" (FC 2).

AFDC-FC, EA-ANEC, AND AAP PROGRAMS		
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- .72 Examples of a foster child's circumstances which are subject to change include, but are not limited to, deprivation, financial need, authority for placement, eligible facility, etc.

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 361.21, 366.25, 366.3, 727.1, 11008.15, 11155.5, 11400(b), 11401(b), 11402, 11403, and 11404.1, 16516.5, Welfare and Institutions Code; Sections 7911.1 and 17552, Family Code; 42 U.S.C. 672(a); and 45 CFR 1356.21(d).

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.1 Deprivation

- .11 The child shall be deprived of parental support or care by the death, physical or mental incapacity, unemployment or absence of the child's parent(s) as specified in Chapter 41-400. This determination shall be made in conjunction with the AFDC-FG/U linkage requirement in .3 below.
- .12 For redetermination purposes as specified in Section 45-201.7, continuing deprivation of parental support or care shall be reevaluated based upon the original home of removal.
 - .121 Continuing deprivation is automatically met in those cases in which deprivation was originally based on the death of either parent, or in which the child has been relinquished following the initial determination of deprivation.
 - .122 If the whereabouts of the parent(s) cannot be determined by the CWD at the time of the redetermination, documentation in the case record shall demonstrate a good faith effort to locate the parent(s) which shall allow federal linkage to continue.
 - .123 If the parent(s) refuses to cooperate, the CWD shall document a good faith effort to obtain the required information. If this effort indicates a continued deprivation status or if no information to the contrary is found, federal linkage shall continue.
 - .124 A subsequent change in the child's circumstances shall not affect the initial determination of deprivation.

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- .125 For example, in a two-parent household, if the principal wage earner returns to full-time employment, deprivation would no longer exist for the child in foster care for those months the principal wage earner was employed full-time. However, if the principal wage earner becomes unemployed again, then the child's status would change from ineligible to eligible and federal financial participation would be available for the foster care payment.

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.2 With Whom Child Must be Placed

.21 The child shall be placed with either of the following:

.211 A nonrelative.

.212 A relative, other than the child's birth or adoptive parents, provided the child is otherwise federally eligible.

(a) The caretaker relative of such child shall have the option of selecting either AFDC-FC or the AFDC-FG/U Program.

(1) If AFDC-FC is selected, the case shall be treated in all respects as an AFDC-FC case.

(2) If AFDC-FG/U is selected, the case shall be treated in all respects as an AFDC-FG/U case.

.3 AFDC-FG/U Linkage Determination

.31 (Reserved)

.32 (Reserved)

.33 The child shall have been linked to the federal Aid to Families with Dependent Children - Family Group/Unemployed (AFDC-FG/U) Program as it existed on July 16, 1996, during the month in which the petition was filed with the juvenile court, which led to the child's placement into foster care pursuant to a detention or dispositional order or the month in which the voluntary placement agreement was signed.

.331 This linkage requirement is met if one of the following conditions exists during the month in which the petition was filed or the voluntary placement agreement was signed:

(a) The child was living in the home of the parent or relative from whom removed and would have been eligible for federal AFDC-FG/U had application been made.

(b) The child was no longer living in the home of the parent or relative from whom removed, but would have been eligible for federal AFDC-FG/U based on that parent's or relative's home had he/she been living there and had application been made.

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- (1) To meet this condition, the child shall have been living with the parent or relative from whom removed, within any of the six months prior to the month in which the petition was filed with the juvenile court, which led to the child's placement into foster care pursuant to a detention or dispositional order.

.332 Section 45-202.332 will not become operative unless and until it has been approved by the federal Department of Health and Human Services as part of the California Title IV-E State Plan.

If the child does not meet the conditions listed in Section 45-202.331, the linkage requirement is met if the following applies:

- (a) The county has information that the child resided with any relative as defined in Section 45-101(r)(1)(A)3.a. during the petition month or within any of the six months prior to the month in which the petition was filed or the voluntary placement agreement was signed, and can establish that the child would have been eligible for AFDC-FG/ U, based on that home, had application been made while the child was living there.

.34 Except as provided in Section 45-202.341, the determination that the child met the federal eligibility criteria of linkage to federal AFDC-FG/U specified in Section 45-202.33 shall be a one-time determination. Therefore, subsequent changes in the child's placement or circumstances, except as specified in Section 45-202.341, shall not affect this initial linkage determination. However, if as a result of such change some other general or federal eligibility requirement is not met, FFP shall not be available until the child meets all other federal and general eligibility requirements.

.341 If the child is returned by the court on a nontemporary basis to the home of the parent or relative from whose home the child had been removed, FFP shall not be available unless a new or supplemental petition is filed and a new detention or dispositional order is made to remove the child from the parent's or relative's home and place him/her in foster care again. The month of the new or supplemental petition shall then be used to determine the aid linkage for federal eligibility and the new detention or dispositional order would determine the authority for placement requirement.

.4 Authority for Placement

.41 The child shall meet one of the following criteria for placement in foster care:

.411 Removal by Court Order

- (a) The child shall be removed from the home of a parent or relative as the result of a court order which specifies:

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- (1) That the responsibility for placement and care be vested in one of the agencies listed in Section 45-202.61; and
 - (2) That continuance in the home of that parent or relative would be contrary to the child's welfare; and
 - (3) That, if the child is placed into foster care on or after October 1, 1983, reasonable efforts have been made to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home.
- (b) The court order shall result in the child's placement in foster care with a nonrelative or with a different relative than the one from whose home he/she was removed.
- (1) This requirement shall be determined to be met if the child was absent from the parent's or relative's home in the month the petition, which initiated court action for removal, was filed, provided the child had resided with such parent or relative within any of the six months prior to the month that petition was filed. For example, the child was living with a grandparent for any reason in the month the petition was filed. However, within any of the six months preceding the filing of the petition, which initiated court action, the child lived with the parent from whom the child was removed. This child shall be considered removed from the home of his/her parent and placed with the grandparent. Furthermore, the linkage determination shall be based on that parent's home as provided in Section 45-202.313.
- (c) Subsequent dismissal of the jurisdictional and dispositional orders shall not result in the loss of FFP provided all other general and federal AFDC-FC requirements continue to be met; and
- (1) The court order was dismissed because the child turned 18 and the child meets the requirements of Section 45-201.111; or
 - (2) The court order was dismissed because, in accordance with Section 45-203.311, the child was relinquished or a termination of parental rights of one or both parent(s) was granted and placement and care is with one of the agencies specified in Section 45-202.61.

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.412 Removal by Voluntary Placement

(a) The child shall be removed from the home of a parent or guardian as a result of a voluntary placement agreement. This out-of-home placement of a minor without adjudication by the juvenile court shall occur only when both of the following conditions exist:

(1) There is a mutual decision between the child's parent or guardian and the placing agency; and

(2) There is a written binding agreement between either the county welfare department, a licensed public adoption agency or the Department acting as an adoption agency, and the parent or guardian of the minor.

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- (b) The voluntary placement agreement shall specify the legal status, rights and obligations of the child; the rights and obligations of the placing agency; the rights and obligations of the parent or guardian; and any other relevant factors.
- (c) Time Limitations
 - (1) A child voluntarily placed shall be eligible for AFDC-FC payments for a period up to 180 days commencing with the date one of the listed agencies in Section 45-202.412(a)(2) assumes responsibility under a voluntary placement agreement and provided all other eligibility requirements are met.
 - (2) The voluntary placement agreement shall be signed prior to or at the time of placement and shall state the beginning date of placement and planned return date of the child to his/her home. This period shall not exceed 180 days.
 - (3) A child voluntarily placed shall be eligible for AFDC-FC payments for subsequent voluntary placements. However, a new 180-day period of eligibility for AFDC-FC payments shall commence only if the child's prior voluntary placement was previously terminated and the child was returned to his/her home. Any subsequent placements shall meet the requirements of Sections 45-202.412(c)(1) and (2).

.42 The income maintenance case record shall contain a statement from the placement worker, on the FC 2 form, which certifies that a copy of the court order or voluntary placement agreement is in the services case record. If Section 45-202.411(c)(2) applies, the case record shall also contain a statement from the placement worker, on the FC 2, or a substitute form approved by the Department, which certifies that the child meets the requirements of Section 45-203.311. This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility, and when there is a change in the authority for placement.

.5 Eligible Facilities

.51 Except as provided in Section 45-202.52, the child shall be residing in one of the following eligible facilities:

- .511 The approved home of a relative, former relative, or nonrelative extended family member.

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- (a) Former relatives must be approved pursuant to Section 45-101(a)(2)(A) in order to receive federal AFDC-FC.

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- .512 A family home licensed by the appropriate community care licensing agency.
- .513 A certified family home certified as meeting licensing standards by a nonprofit foster family agency that is licensed by the department.
- .514 A private, nonprofit group home licensed by the department, provided the placement worker has determined that such placement is necessary to meet the treatment needs of the child and that the facility offers those treatment services.
- .515 A Transitional Housing Placement Facility licensed by the Department.
- .516 A crisis nursery as defined by Section 45-101(c)(7).
- .517 In the case of an Indian child, a facility specified in Section 45-202.511 through .515 or family home as defined in Section 45-101(a)(2)(C).
- .518 In the case of a child placed out of the State of California, the child shall be placed in any of the following:
- (a) An appropriately licensed child care facility which accords the child the same personal rights accorded children as specified in Title 22 California Code of Regulations, Section 80072.
- (b) A certified out-of-state group home; or
- (c) An out-of-state group home which has not been certified by the Department but which has been approved by the Compact Administrator.

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Title 22 California Code of Regulations, Section 80072 provides the following conditions be met:

- (a) Each client shall have personal rights which include, but are not limited to, the following:
 - (1) To be accorded dignity in his/her personal relationships with staff and other persons.
 - (2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his/her needs.
 - (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to interference with the daily living functions, including eating, sleeping or toileting; or withholding of shelter, clothing, medication, or aids to physical functioning.

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- (4) To be informed and to have his/her authorized representative, if any, informed by the licensee of the provisions of law regarding complaints including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency, and of information regarding confidentiality.
- (5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice.
 - (A) Attendance at religious services, in or outside of the facility, shall be on a completely voluntary basis.
- (6) To leave or depart the facility at any time.
 - (A) The licensee shall not be prohibited by this provision from setting curfews or other house rules for the protection of clients.
 - (B) This provision shall not apply to minors and other clients for whom a guardian, conservator, or other legal authority has been appointed.
- (7) Not to be locked in any room, building, or facility premises by day or night.
 - (A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing house rules for the protection of clients provided the clients are able to exit the facility.
 - (B) The licensee shall be permitted to utilize means other than those specified in (7)(A) for securing exterior doors and windows only with the prior approval of the licensing agency.
- (8) Not to be placed in any restraining device. Postural supports may be used if they are approved in advance by the licensing agency as specified in (8)(A) through (F) below.

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- (A) Postural supports shall be limited to appliances or devices including braces, spring release trays, or soft ties, used to achieve proper body position and balance, to improve a client's mobility and independent functioning, or to position rather than restrict movement including, but not limited to, preventing a client from falling out of bed, a chair, etc.
1. Physician-prescribed orthopedic devices such as braces or casts used for support of a weakened body part or correction of body parts are considered postural supports.
- (B) All requests to use postural supports shall be in writing and include a written order of a physician indicating the need for such supports. The licensing agency shall be authorized to require other additional documentation in order to evaluate the request.
- (C) Approved postural supports shall be fastened or tied in a manner which permits quick release by the resident.
- (D) The licensing agency shall approve the use of postural supports only after the appropriate fire clearance, as required by Section 80020(a) or (b), has been secured.
- (E) The licensing agency shall have the authority to grant conditional and/or limited approvals to use postural supports.
- (F) Under no circumstances shall postural supports include tying of, or depriving or limiting the use of, a resident's hands or feet.
1. A bed rail that extends from the head half the length of the bed and used only for assistance with mobility shall be allowed with prior licensing approval. Bed rails that extend the entire length of the bed are prohibited.

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- (G) Protective devices including, but not limited to, helmets, elbow guards, and mittens which do not prohibit a client's mobility but rather protect the client from self-injurious behavior are not to be considered restraining devices for the purpose of this regulation. Protective devices may be used if they are approved in advance by the licensing agency as specified below.
1. All requests to use protective devices shall be in writing and include a written order of a physician indicating the need for such devices. The licensing agency shall be authorized to require additional documentation including, but not limited to, the Individual Program Plan (IPP) as specified in Welfare and Institutions Code Section 4646, and the written consent of the authorized representative, in order to evaluate the request.
 2. The licensing agency shall have the authority to grant conditional and/or limited approvals to use protective devices.
- (9) To receive or reject medical care, or health-related services, except for minors and other clients for whom a guardian, conservator, or other legal authority has been appointed.
- (b) All clients, or their authorized representative(s), shall be personally advised of and given at admission a copy of the rights specified in (a)(1) through (9) above and in the applicable Personal Rights sections of Chapters 2 through 7.
 - (c) The information specified in (b) above shall be prominently posted in areas accessible to such clients and their visitors.
 - (d) The licensee shall ensure that each client is accorded the personal rights as specified in this section and the applicable sections of Chapters 2 through 7.

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45-202 **FEDERAL AFDC-FC PROGRAM (Continued)** **45-202**

.519 Repealed by Manual Letter No. EAS-03-01 effective 1/18/03.

.52 An otherwise federally eligible child shall be eligible when placed in a public child care institution subject to the following conditions:

.521 AFDC-FC funding for a child placed in public child care institutions shall be limited as specified in (a), (b) or (c) below. AFDC-FC funding may be continued beyond these time limits only when the child is moved to an eligible facility specified in Section 45-202.51 and all other requirements continue to be met.

(a) AFDC-FC funding for emergency shelter care in a public child care institution shall be available for up to thirty days in any consecutive twelve-month period in lieu of Other County Social Services funds; or

(b) AFDC-FC funding for emergency shelter care in public child care institutions identified as crisis nurseries that will provide care to children under the age of six years for up to 14 days in any consecutive twelve-month period unless the Department issues an exception; or

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- (c) AFDC-FC funding for nonemergency shelter care in a public child care institution shall be available for up to ninety days within any consecutive twelve-month period when;
 - (1) the child's placement in one or more eligible facilities has been unsuccessful as a result of the child's behavior and/or treatment needs; and
 - (2) the agency with placement and care responsibility has determined that no appropriate eligible facility as specified in .51 above, is available.
- .522 AFDC-FC funding shall be available under the provisions of .52 only during such federal fiscal year when no funding restriction exists.
- .53 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158A form which certifies that the child has been placed in one of the above eligible facilities. This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility, when the child is moved to a different facility and when there is a change in the licensing status of the facility in which the child has been placed.
- .6 Placement and Care
 - .61 Responsibility for placement and care shall be vested in one of the following agencies:
 - .611 A county welfare department.
 - .612 A county probation department, provided there is in effect a written agreement with the county welfare department as specified in Chapter 29-400 that the services required in Section 45-201.4 shall be performed by the county probation department.
 - .613 A licensed public adoption agency which is the same governmental agency as the county welfare department.
 - .614 A licensed public adoption agency which is a governmental agency separate from the county welfare department, provided there is in effect a written agreement with the county welfare department as specified in Chapter 29-400 that the services required in Section 45-201.4 shall be performed by that adoption agency.

45-202 **FEDERAL AFDC-FC PROGRAM (Continued)** **45-202**

- .615 A district adoptions office of the department, provided the services required in Section 45-201.4 are performed by the adoptions office.

- .62 FFP shall not be available for children living with nonrelated legal guardians unless the juvenile court order remains in effect and specifies that responsibility for placement and care is vested in one of the agencies specified in .61 above.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 366.26, 11400(m), 11400(o), 11401(b) and (e), 11401(f), 11402, 11402.1, and 16507.4, Welfare and Institutions Code; Sections 7660 et. seq., 7800 et. seq., and 7911.1, Family Code; Section 1505, Health and Safety Code; Public Law 95-608; 25 USC 1915; Public Law 96-272; 45 CFR 1356.30; 42 U.S.C. 606; 42 U.S.C. 671; 42 U.S.C. 672(a)(2) and (4); Sections 80072, 84072, 84072.1, and 84072.2, Title 22, California Code of Regulations; Capitola Land et al. v. Anderson, 55 Cal. App. 4th 69, 63 Cal.Rptr.2d 717, (1997); and Anderson v. Superior Court, 68 Cal.App. 4th 1240, 80 Cal.Rptr.2d 891, (1998).

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- .1 Deprivation
 - .11 A child shall be considered deprived of parental support or care when placed in foster care in accordance with a court order or a services determination of the need for foster care or when living with a nonrelated legal guardian.
- .2 With Whom Child Must Be Placed
 - .21 The child shall be placed with a nonrelative or be living with a nonrelated legal guardian.

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- .211 No aid shall be paid on behalf of a child who is living in the same home as his/her birth or adoptive parent(s) as specified in Section 45-302.2.

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- .22 In the case of an Indian child, the child may be placed with a relative pursuant to the Indian Child Welfare Act.
- .3 Authority for Placement
 - .31 The child shall meet one of the following criteria:
 - .311 The child shall either have been relinquished for purposes of adoption by one or both parents to a licensed public or private adoption agency, or to a district adoptions office of the department, or termination of parental rights of one or both parents shall have been granted.

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- .312 The child shall be living with a nonrelated legal guardian (see Special Provisions in Section 45-203.61).

- .313 The child was placed pursuant to a court order which remains in effect and specifies:
 - (a) That the responsibility for placement and care be vested in one of the agencies listed in Section 45-203.51; and
 - (b) That continuance in the home of the parent, guardian, or relative from whom removed would be contrary to the child's welfare; and
 - (c) That, if the child was placed into foster care on or after January 1, 1986, reasonable efforts have been made to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home; or

- .314 The child was placed by a parent or guardian under a voluntary placement agreement (see Special Provisions in Section 45-203.63).

- .32 The authority for placement as described under .31 shall be considered to continue for a child aged 18, who was in placement under an authority for placement specified in .311 through .314 above prior to reaching age 18, provided the requirements of Section 45-201.111 are met.

- .33 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158A (11/88) form which certifies that:
 - .331 The child meets the authority for placement requirement in .311 above; or
 - .332 A copy of one of the following documents granting authority for placement is in the services case record:
 - (a) Letters of Guardianship of the Person or of the Person and Estate.
 - (b) The court order.
 - (c) The voluntary placement agreement.

This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility and when there is a change in the authority for placement.

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.4 Eligible Facilities

- .41 The child shall be residing in one of the following eligible facilities:
 - .411 The home of a nonrelated legal guardian, or the home of a former nonrelated legal guardian when the guardianship of a child who is otherwise AFDC-FC eligible has been dismissed due to the child's attaining age 18, which has been determined to be suited to the needs of the child by the social worker or probation officer.
 - .412 The approved home of a nonrelative extended family member.
 - .413 A family home licensed by the appropriate community care licensing agency.
 - .414 A certified family home certified as meeting licensing standards by a nonprofit foster family agency that is licensed by the department.
 - .415 A private, nonprofit group home licensed by the department, provided the placement worker has determined that such placement is necessary to meet the treatment needs of the child and that the facility offers such treatment services.
 - .416 In the case of an Indian child, a facility specified in Section 45-203.411 through .415 or family home as defined in Section 45-101(a)(2)(C).
 - .417 In the case of a child placed out of the State of California, the child shall be placed in either of the following:
 - (a) An appropriately licensed child care facility which accords the child the same personal rights accorded children as specified in Title 22 California Code of Regulations, Section 80072;
 - (b) A certified out-of-state group home; or
 - (c) An out-of-state group home which has not been certified by the Department but which has been approved by the Compact Administrator.

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See Section 45-202.517 for relevant part of Title 22, California Code of Regulations, Section 80072.

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- .418 A crisis nursery as defined by Section 45-101(c)(7).

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- .42 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158A form that the child has been placed in one of the above eligible facilities. This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility, when the child is moved to a different facility and when there is a change in the licensing status of the facility in which the child has been placed.

- .5 Placement and Care
 - .51 Except for children living with nonrelated legal guardians or placed voluntarily prior to January 1, 1982, responsibility for placement and care shall be vested in one of the following agencies:
 - .511 A county welfare department.
 - .512 A county probation department, provided there is in effect a written agreement with the county welfare department, as specified in Chapter 29-400, that the services required in Section 45-201.4 shall be performed by the county probation department.
 - .513 A licensed public adoption agency which is the same governmental agency as the county welfare department.
 - .514 A licensed private adoption agency provided the services required in Section 45-201.4 are performed by the adoption agency.
 - .515 A licensed public adoption agency which is a governmental agency separate from the county welfare department, provided there is in effect a written agreement with the county welfare department, as specified in Chapter 29-400, that the services required in Section 45-201.4 shall be performed by that adoption agency.
 - .516 A district adoptions office of the department, provided the services required in Section 45-201.4 are performed by the adoptions office.

- .6 Special Provisions
 - .61 Children with Nonrelated Legal Guardians
 - .611 A child living with a nonrelated legal guardian shall be eligible for AFDC-FC provided:
 - (a) All general AFDC-FC requirements specified in 45-201.1 through 45-201.3 are met.
 - (b) The state requirements specified in .1 and .4 above are met.

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(c) The legal guardian cooperates with the county welfare department in its provision of the social services specified in Section 45-201.4. When the legal guardian is not cooperating, the provisions of Section 45-302.241 shall apply.

.612 The county welfare department shall provide the social services specified in Section 45-201.4.

.62 (Repealed by Manual Letter No. 84-65.)

.63 Children in Voluntary Placement

.631 After January 1, 1983, the decision regarding the need for a child's voluntary placement shall be made by the county welfare department, a licensed public or private adoption agency, or the department and shall not be delegated to any other individual or agency.

.632 Time Limitations

Except as provided in (a), (b), and (c) below, AFDC-FC funding for voluntarily placed children shall be available for a maximum of six months for each child provided all other eligibility requirements continue to be met. The six months need not be one continuous voluntary placement. If more than one placement occurs, the aggregate AFDC-FC payments for all the voluntary placements of the same child shall not exceed a total of six months.

(a) If placed voluntarily prior to January 1, 1981, the child shall be eligible for AFDC-FC payments provided all other eligibility requirements continue to be met.

(b) If placed voluntarily on or after January 1, 1981 and before January 1, 1982, the child may continue to receive AFDC-FC payments until January 1, 1982, provided all other eligibility requirements continue to be met. After January 1, 1982, the provisions of .632 above shall apply.

(c) If the authority for placement changes from a voluntary placement to another authority for placement specified in Sections 45-202.4 or 45-203.31, the six-month time limitation no longer applies.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 366.26, 11400(g) and (h), 11401(c), 11401(e), 11402, and 11402(c) and (d); Welfare and Institutions Code; Sections 7660 et. seq., 7800 et seq., and 7911.1, Family Code; and Public Law 95-608, 25 U.S.C. 1915.

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CHAPTER 45-300 AFDC-FC PAYEE, PAYMENT AND DELIVERY

45-301 ELIGIBLE PAYEES 45-301

.1 Federal AFDC-FC Program

.11 FFP shall be available for payments made on behalf of a federally eligible child to any one of the following:

.111 A family home in which the child has been placed.

.112 A licensed, private, nonprofit group home in which the child has been placed.

.113 The probation officer.

.114 A cooperating public or nonprofit private child placement or child care agency which is licensed by the department, where required, and which has responsibility for placement and care of the child.

.115 The licensed homefinding agency which certified the exclusive-use home in which the child has been placed.

.116 A crisis nursery as defined by Section 45-101(c)(7).

.2 State AFDC-FC Program

.21 Under the state program, payments shall be made to:

.211 Any one of the payees listed in .1 above.

.212 A licensed, private, non-profit group home in which the child has been placed.

.213 The nonrelated legal guardian with whom the child has been placed.

.214 An eligible child, as his/her own payee, who is temporarily absent from an eligible facility, provided (a) and (b) below are met:

(a) The child is otherwise eligible and:

(1) Aged 16 or 17 and temporarily absent to attend a college, vocational or work and training institution; or

45-301 ELIGIBLE PAYEES (Continued) 45-301

- (2) Aged 18, and temporarily absent to attend a high school or vocational-technical training program as specified in Section 45-201.111(b)(3).
- (b) All the following conditions are met:
 - (1) Payment to the child is necessary to implement the social service plan.
 - (2) The social worker or probation officer has determined the child is sufficiently mature and responsible.
 - (3) None of the payees in .211 or .212 above is feasible.
 - (4) Payment for the same period has not been made to one of the payees in .211 or .212.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11400(h) and 11402(c), Welfare and Institutions Code.

45-302 PAYMENT 45-302

.1 SSI/SSP Supplementation

.11 The county shall have the option of supplementing a child's SSI/SSP grant with state AFDC-FC when the child in foster care placement meets all general and state AFDC-FC requirements, and is not otherwise federally eligible. FFP shall not be available in the AFDC-FC supplement to the SSI/SSP grant.

.2 Payment Conditions

.21 Except as specified below, payment shall only be made when the child is not living in the same home as his/her birth or adoptive parent(s) and resides in an eligible facility which is not the same home in which the parent(s), relative, or legal guardian from whom the child was removed makes his/ her home.

.211 An infant supplement shall be paid in addition to a minor parent's AFDC-FC payment for a child who is living in the same eligible facility with a minor parent who is receiving AFDC-FC.

.212 The infant supplement amount shall be determined pursuant to Section 11-415.

45-302 PAYMENT (Continued) 45-302

.22 AFDC-FC payments shall not be made for any days an otherwise eligible child resides in an unlicensed group home or in an unlicensed or unapproved family home.

.23 Child Absences

.231 When an AFDC-FC eligible child is temporarily absent from an eligible facility such as for school, work or training program, hospitalization, visiting, vacationing, emergency circumstances, the county may make payment to the eligible facility from which the child is absent in order to meet the child's needs. The payment shall be made to one of the payees listed in Section 45-301.1 or 45-301.2.

- (a) A child is determined to be temporarily absent when he/she is absent for no more than 14 days in a calendar month.
- (b) A child who is in a public hospital, as defined in Section 80-301(p)(3), shall be considered temporarily absent from an eligible facility when, on the first of the month for which the AFDC-FC payment is due, the child has not been in the public hospital for two full calendar months, irrespective of the day on which he or she entered that facility.

HANDBOOK BEGINS HERE

SCENARIO #1: The youth is in a foster home placement and unexpectedly runs away from the placement on January 24th. The child returns to the same home **14** days later on February 7th. Could the county provide two full months of a foster care payment to the provider?

Because the child was not absent in January for more than 14 days and was not absent in February for more than 14 days the county could provide two full months of foster care payments to the provider.

SCENARIO #2: The youth is in a foster home placement and unexpectedly runs away from the placement on January 24th and returns to the same home **18** days later on February 11th. In this scenario could the county pay the provider a full month of IV-E maintenance payment for January?

The county could pay the full months of January AND February since the child was not absent more than 14 days in each month.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

SCENARIO #3: The youth is in a foster home placement and runs away from placement (or is hospitalized) from January 2nd to the 14th and then again from January 20th through 27th. In this scenario could the county pay the provider a full month of IV-E maintenance payment for January?

Because the youth was absent from placement for more than 14 days in the calendar month, the county would have to prorate the maintenance payment to reduce the payment by the number of days exceeding 14 days in the calendar month.

HANDBOOK ENDS HERE

- .24 Child Living with Nonrelated Legal Guardian
 - .241 When the child resides in the home of a nonrelated legal guardian who is not cooperating with the county welfare department in its provision of social services, as required in Section 45-203.611(c), AFDC-FC shall not be paid.
- .25 Child Placed in Out-of-State Group Home
 - .251 No public funds shall be expended on behalf of a child placed in an out-of-state group home unless all of the following conditions are met:
 - (a) There has been a finding by the court that:
 - (1) The group home is licensed or certified for the placement of minors by an agency in the state in which the minor will be placed; and
 - (2) All the requirements specified in Family Code Section 7911.1 have been met.

45-302	PAYMENT (Continued)	45-302
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- (b) The court reviews the out-of-state group home placement every six months to ensure that the requirements specified in MPP Sections 45-302.251(a)(1) and (2) continue to be met.
- (c) The court reviews the out-of-state group home placement at each periodic review and permanent placement hearing to ensure that the out-of-state placement continues to be the most appropriate placement for the child and continues to be in the best interests of the child.
- (d) The assessment and placement recommendation as specified in MPP Section 45-201.44 have been met.
- (e) The monthly visit requirements as specified in MPP Section 45-201.414(a) have been met.
- (f) The child is placed in an eligible facility as specified in MPP Section 45-202.517 or MPP Section 45-203.417, as appropriate.
- (g) There has been an additional finding by the court that in-state facilities or programs have been determined to be unavailable or inadequate to meet the needs of the child.
- (h) The court reviews the out-of-state group home placement every six months to ensure that the requirements specified in MPP Section 45-302.251(g) continue to be met.

.3 Beginning Date of Aid

- .31** If the child is determined to be eligible, the beginning date of aid for AFDC-FC shall be the date of application if the child meets all eligibility conditions on that date, or the date on which the child meets all eligibility conditions, whichever is later.
- .32** For purposes of .31 above:

 - .321** "The date of application" means the date on which an authorized county employee completes, signs and dates an application on behalf of a child, or the date on which the county receives a signed and dated application from the child's parent or a person other than a county employee.
 - .322** "The date on which the child meets all eligibility conditions" means the date that the following conditions exist, even though verification or documentation of the condition is received at a later date:

45-302	PAYMENT (Continued)	45-302
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- (a) All linking and nonlinking factors of eligibility are met, including deprivation of parental support or care, age, citizenship or alienage status, residence, property and income eligibility requirements; and
 - (b) All other applicable conditions of eligibility are met including, but not limited to, technical conditions of eligibility, authority for placement and eligible facility requirements, as specified in MPP 45-201, 45-202 or 45-203, and 45-300. Technical conditions of eligibility as specified in MPP 45-302.322(c) are considered to be met on the date of application as long as the conditions are completed by the date of authorization.
 - (c) For purposes of determining the beginning date of aid for AFDC-FC, the technical conditions of eligibility are limited to social security enumeration, application for unconditionally available income and child support requirements.
- .33 Other provisions pertaining to restoration of aid, intraprogram status changes and intercounty transfers are found in MPP 44-317.
- .4 AFDC-FC Budgeting Methods
- .41 The budget period for computation of AFDC-FC grants shall be the current month. AFDC-FC grants shall be computed on the basis of known or estimated income in the current calendar month (i.e., prospective budgeting method).
- .42 Every effort shall be made by the county to ensure that the foster care provider or relative with whom the child is placed or the nonrelated legal guardian with whom the child lives and the parent(s) and the child are aware of the necessity to report any change in need or income for the child.
- .43 Budget Computations
- .431 The foster care grant shall be computed by:
- (a) Rounding to the next lowest dollar the total net income of the child as determined under Chapter 44-100 and the sum of the county foster care rate and specialized care increment as determined under Operations Manual Chapter 11-400; and
 - (b) Subtracting the rounded current net income from the rounded sum of the rate and specialized care increment.

45-302 PAYMENT (Continued) 45-302

.5 Last Date of Payment

.51 Except as provided in .511 below, the last date of payment shall be the day preceding the day the child permanently leaves, is removed or runs away from an eligible facility, or turns eighteen (or nineteen pursuant to Section 45-201.1).

.511 The county shall have the option of making an additional AFDC-FC payment beyond the date in which the child permanently leaves or is removed from foster care provided the following conditions are met:

- (a) The child has been moved from the eligible facility to what the placement agency considers a potentially unstable living arrangement or the child has run away from such eligible facility.
- (b) The same eligible facility has agreed to take the child back immediately upon notice from the placement agency, regardless of whether the child actually returns to that same facility.
- (c) The child has not been moved from one eligible facility to another eligible facility.
- (d) No other AFDC-FC payment has been made for the same period.
- (e) The additional payment does not exceed the monthly rate set for the eligible facility and does not extend beyond the end of the month in which the child leaves the facility.

.52 When an otherwise eligible child has been moved from one eligible facility to another, the day the child is moved and placed in the second facility shall be the first day of payment for the second provider.

HANDBOOK BEGINS HERE

.6 Rate of Payment

.61 For provisions pertaining to rate setting for family homes, group homes and foster family agencies, see Chapter 11-400.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

- .62 For provisions pertaining to clothing allowance and funeral expense special needs for AFDC-FC, see Section 11-420.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code. Reference: Section 7911.1, Family Code; and Sections 361.21, 366, 727.1, 11017, 11056, 11400(f), 11401, 11402, 11403, 11405, 11269, 11466.24, and 16516.5, Welfare and Institutions Code; Section 472(a)(1), Social Security Act.

45-303	PAYMENT DELIVERY	45-303
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- .1 AFDC-FC payments shall be delivered in one amount no later than the fifteenth of the month following the furnishing of care. Warrants shall not be forwarded or mailed outside the United States, as specified in Section 44-305.21.
- .2 As a condition of Payment Delivery, provided the county has provided adequate written notification, then the county may require a foster care provider to:
- .21 Report timely that a child received care from the provider for the entire month.
 - .22 Report timely the date the child left the provider's care when the provider did not care for the child for the entire month or the number of days in the month the provider cared for the child when the child leaves and returns after a temporary absence of 15 days or more; and
 - .23 Provide all relevant verifications upon county request.
- .3 In advance of the county application and operation of Section 45-303.2, the county shall include in its written notice, the deadline for provider submissions of information specified in Section 45-303.2.
- .4 Where the county has required a provider to comply with Section 45-303.2, and the county has provided adequate written notification of information required and consequences as provided in Sections 45-303.3 and .4, failure by the provider to provide the required information timely may result in the payment being delayed by no later than 15 days after the information is submitted to the county.
- .5 Failure of the provider to provide required confirmation may result in the county not making payment.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Section 33. Reference: Section 11466.235, Welfare and Institutions Code.

45-304 AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS - 45-304
GENERAL

- .1 Overpayment Recovery for Foster Care Providers, including but not limited to, Group Homes, Foster Family Agencies, Small Family Homes, Foster Family Homes, Relative Homes, Nonrelative Extended Family Members, and Non-related Legal Guardians
 - .11 An overpayment is any amount of aid paid which a foster care provider received on behalf of a child to which the provider was not entitled, or an expenditure made by a Foster Family Agency or a Group Home provider not in conformity with Section 11-404.
 - .111 Each county must develop and institute a program of internal controls to avoid making overpayments.
 - (a) The program may include policies and activities conducted prior to the issuance of payment.
 - (b) As a condition of Payment Delivery, Section 45-303, the county may require a foster care provider to:
 - (1) Timely report that a child received care from the provider for the entire month.
 - (2) Timely report the date the child left the provider's care when the provider did not care for the child for the entire month or the number of days in the month the provider cared for the child when the child leaves and returns after a temporary absence of 15 days or more; and
 - (3) Provide all relevant verifications upon county request.
 - (c) Where the county has required a provider to comply with Section 45-303.2, failure by the provider to provide the information may result in the payment being delayed by no later than 15 days after the information is submitted to the county.
 - .112 If the foster care provider reports, or if the county otherwise determines, that the foster child resided in foster care placement for less than the full month, the county shall prorate the payment, unless Section 45-304.123 applies.
 - .113 An overpayment does not occur when the county exercises the option to make payment to an eligible facility for a child temporarily absent, for a period not to exceed 14 days in a calendar month, in accordance with Section 45-302.231.

45-304	AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS - GENERAL (Continued)	45-304
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- .12 The county shall take all reasonable steps necessary to promptly assess whether an overpayment has occurred.
 - .121 Overpayment assessments shall include discovery of the overpayment and documentation of the overpayment.
 - (a) Discovery of overpayments. The county shall ensure that a written program of internal controls exists and operates on an ongoing basis to discover, in a timely manner, payments made to a foster care provider for which that provider was not eligible to receive.
 - (1) Methods of discovering the existence of payment errors and determining the amount of the payment error shall be implemented and include, but not be limited to: supervisory review of payments made; reconciliation between social worker or probation officer and eligibility worker information; and a quality assurance system.
 - (b) Documenting overpayments. The county shall document the amount of the overpayment, the actual dates of the days overpaid, the date of discovery of the overpayment, the aid code for which the overpayment was made, and include the reasons for the payment error.
 - (c) The overpayment is not identified until it has satisfied the requirements in Section 45-304.5.
 - .122 The county shall demand and collect overpayments from a Foster Family Home, an approved home of a relative or non-relative extended family member, an approved home of a nonrelated legal guardian, Group Homes, Small Family Homes and Foster Family Agencies for any period of time in which the foster child was not cared for in that home, except as provided in Sections 45-304.123 and 45.304.125.
 - .123 The county shall not demand collection of overpayments made to a Foster Family Home, an approved home of a relative or non-relative extended family member, or an approved home of a nonrelated legal guardian, where any of the following conditions exist:
 - (a) The overpayment was exclusively the result of a county administrative error;
 - (b) Neither the county nor the provider was aware of the information that would establish that the child was not eligible for foster care benefits in that provider's home; or

45-304	AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS - GENERAL (Continued)	45-304
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(c) The provider did not have knowledge of, and did not contribute to, the cause of the overpayments.

.124 For overpayments described in Section 45-304.123, the county may request the provider voluntarily return an overpayment when the county informs the provider that they have no legal or other obligation to return the overpayment, and failure to return the overpayment will not result in any adverse action against the provider and any child living in the home.

.125 The county shall not pursue collection of overpayments made to an overpaid foster care provider where the cost of the collection exceeds the amount of the overpayment.

(a) Costs which the county shall consider when determining the cost effectiveness to collect are total administrative and personnel costs, legal filing fees, investigative costs, and any other costs which are applicable.

(b) The county shall have a written debt write-off policy approved by the County Welfare Director covering situations including, but not limited to:

(1) Where the debtor cannot be located.

(2) Where the debtor is unable to pay.

(3) Where the costs of further overpayment recovery actions will exceed estimated recovery amounts.

(4) Notwithstanding (3), the written policy may include a provision permitting write off of an amount not to exceed \$100.

(c) The county shall maintain adequate documentation supporting its decision to write off an overpayment. Adequate documentation shall include, but not be limited to:

(1) A description of all actions, including the dates of those actions that have been taken to recover the overpayment, and the results from those actions.

(2) The costs and benefits of engaging in these further collection actions.

45-304	AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS - GENERAL (Continued)	45-304
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- (3) The basis for the decision to pursue/not pursue collection of the overpayment.
 - (4) The date when recovery actions were terminated on the overpayment.
 - (5) If Section 45-304.125(b)(4) applies to an overpayment, then adequate documentation shall consist of documenting the amount of the overpayment.
- .126 The county shall not demand collection of overpayments made to non profit corporations operating group homes or foster family agencies that are no longer in business or licensed by the department.
- (a) The county shall not initiate a financial or fiscal audit, or any activity that could lead to the establishment of an overpayment of a group home or foster family agency that is no longer in business or licensed by the department, without prior written approval of the department. This provision does not apply to fiscal or financial audits instituted by law enforcement agencies as defined in the Penal Code.
 - (b) The county shall not take any action in furtherance of an existing financial or fiscal audit, or any activity that could lead to the establishment of an overpayment of a group home or a foster family agency that is no longer in business or licensed by the department, without prior written approval of the department. This provision does not apply to fiscal or financial audits instituted by law enforcement agencies as defined in the Penal Code.
- .127 Nothing in Sections 45-304.122, .123 or 124 prevents counties from collecting an overpayment which results from the payment of aid paid pending.
- .2 Investigation of Overpayments
- .21 When information indicates that an overpayment may have occurred, the county shall take the following actions:
- .211 Review the eligibility factors to determine what the correct grant amount should have been;
 - .212 Calculate the amount of the overpayment;

**45-304 AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS - 45-304
GENERAL (Continued)**

- .213 Determine whether any of the factors in Section 45-304.123 or .124 preclude overpayment recovery. If none of the factors in Section 45-304.123 or .124 preclude recovery then:
- (a) Determine from whom the overpayment may be recovered (see Section 45-304.3);
 - (b) Comply with the requirements in Section 45-305.
 - (c) The county may seek voluntary collection consistent with Section 45-305.231.
- .214 If after performing the actions required under Section 45-305, full recovery of the overpayment is not achieved, then the county shall determine whether to pursue collection of the overpayment as specified in Section 45-304.125.

.3 Overpayment Recoupment

- .31 Overpayments shall only be collected from the provider who actually received the overpayment from the county. Overpayments shall not be collected from subsequent providers who provide care to the child for whom the overpayment was assessed.
- .32 If the child for whom the overpayment was assessed is no longer residing in the home of the provider, grant adjustment and grant offset shall not be used to recover the amount of the overpayment. This section applies even if the provider is caring for other foster care children.

HANDBOOK BEGINS HERE

Section 45-304.32 does not prohibit those overpayment collection procedures detailed in Section 45-305.22 or .23.

HANDBOOK ENDS HERE

- .33 For recoupment of overpayments made to group homes and foster family agencies, the counties shall reduce any subsequent payments by an amount equal to the amount of the administrative portion of the monthly payment to the provider. See Section 45-305 for offset methodology.

45-304	AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS - GENERAL (Continued)	45-304
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- .4 Limitations on Recoupment of Overpayments
 - .41 A county shall not collect interest on the repayment of an overpayment unless Section 45-305.33 applies.
 - .42 A county shall not initiate overpayment recovery after one year from the date the county discovers the overpayment.
 - .421 When the overpayment recovery was initiated within one year of the date the county discovered the overpayment, the county shall continue to recover the overpayment until fully recovered or written off pursuant under the county's write off policy.

HANDBOOK BEGINS HERE

The initial discovery of the overpayment may occur more than a year after the actual overpayment occurred and recovery shall be sought unless prohibited by Section 45-304.123. The date of discovery is controlling, not the date of the actual overpayment.

HANDBOOK ENDS HERE

- .422 This section does not prohibit the county from entering into voluntary or involuntary repayment schedules which last longer than a year from the date of the initial discovery of the overpayment.
 - .423 This section does not apply where the county institutes an involuntary repayment schedule after a provider has failed to comply with a voluntary repayment schedule.
- .5 County Identification and Remittance of Overpayments (See Section 45-304.12)
- .51 If the overpaid provider does not request a review of the county overpayment determination, the overpayment shall be identified two (2) days after the date the overpaid provider's time frame to request a review has elapsed.
 - .52 If the overpaid provider requests review of the county's overpayment determination (under Section 45-306), the date the overpayment is identified shall be the date the overpaid provider exhausts administrative due process (under Section 45-306).
 - .53 The county shall, no later than 20 calendar days after the end of the month in which the overpayment was identified, make an aid claim adjustment in an amount equal to 60 percent of the federal share of the overpayment amount for all overpayments identified other than overpayments specified in Sections 45-304.122, .123 and .124.

45-305	COLLECTIBLE AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS; METHODS OF OVERPAYMENT RECOVERY (Continued)	45-305
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- .16 The provider's right and time frame to request an informal hearing pursuant to MPP Section 45-306; and
- .17 The provider's right and time frame to request a State hearing pursuant to MPP Division 20.
- .2 Voluntary Repayment Procedures
 - .21 A provider may voluntarily agree to repay an assessed overpayment in the following order of priority:
 - .211 Voluntary Lump Sum Repayment, MPP Section 45-305.22.
 - .212 Voluntary Repayment Agreement, MPP Section 45-305.23.
 - .213 Voluntary Grant Offset, MPP Section 45-305-24.
 - .22 Voluntary Lump Sum Repayment
 - .221 A provider may voluntarily repay an assessed overpayment by making a lump sum payment to the county on or before the date the provider and county have agreed repayment would be received.
 - .23 Voluntary Repayment Agreement
 - .231 If a provider agrees to voluntarily repay the assessed overpayment, the county and the provider shall sign a written repayment agreement that includes the amount of the overpayment, the terms of repayment, including the repayment schedule, and the consequences for failure to comply with the terms of the voluntary repayment agreement.
 - (a) The agreement shall provide that the provider has sufficient funds to provide adequate care and supervision to all children in care after payment.
 - (b) The agreement shall provide that during the period the agreement is in effect it is the responsibility of the provider to timely inform the county of circumstances under which continued payment under the voluntary repayment agreement may result in insufficient funds to provide adequate care and supervision to all children in care.

45-305 COLLECTIBLE AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS; METHODS OF OVERPAYMENT RECOVERY **45-305**
(Continued)

- (c) Consequences for failure to comply with the terms of the voluntary repayment agreement may include, but are not limited to, restrictions on current and future placements, involuntary repayment, and monetary damages that relate to increased administrative costs incurred by the county due to the provider's non-compliance.
- (d) The agreement shall provide that by agreeing to a voluntary repayment the provider is waiving rights to appeal the overpayment determination and the amount of the overpayment, pursuant to MPP Section 22-003.15.

HANDBOOK BEGINS HERE

MPP Section 22-003.15 provides:

"There is no right to a state hearing regarding overpayments made to foster care providers including group homes and foster family agencies where the claimant entered into a voluntary repayment agreement, or where the county requested voluntary repayment under MPP Section 45-305.231."

HANDBOOK ENDS HERE

- (e) The agreement can be amended only by written consent of both parties.

.24 Voluntary Grant Offset

- .241** If the provider agrees to a voluntary grant offset, the provider and the county shall sign a written voluntary grant offset agreement that includes the amount of the overpayment, the amount to be offset, and the duration of the offset.
 - (a) The agreement shall provide that the provider has sufficient funds to provide adequate care and supervision to all children in care after deduction of grant offset.
 - (b) The amount deducted from the child's current grant be more than 10 percent of the child's total grant.

45-305 COLLECTIBLE AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS; METHODS OF OVERPAYMENT RECOVERY **45-305**
(Continued)

HANDBOOK BEGINS HERE

Example: Provider Jones has three foster children in her home, Jenny, Johnny, and Joe. An overpayment in the amount of \$400 is assessed for Joe. Joe's monthly payment is \$408. The provider agrees to a voluntary grant offset. \$40 is subtracted from Joe's monthly payment, for a total monthly payment of \$368, for 10 months. Neither Jenny nor Johnny's payments are reduced.

	\$408 (monthly grant)
x	.10% (maximum)
	\$40 (amount to be deducted from monthly grant)
	\$408 (monthly grant)
-	\$ 40
	\$368 (new monthly grant for 10 months)

HANDBOOK ENDS HERE

- (c) Voluntary grant offset may be applied only to the grant of a child for whom the overpayment was assessed. If the provider agrees to a grant offset, at no time shall any amount be deducted from the grant of a child other than the child for whom the overpayment was assessed.

HANDBOOK BEGINS HERE

Example: Provider Jones has three foster children in her home, Jenny, Johnny, and Joe. An overpayment in the amount of \$400 is assessed for Fred who had lived in Provider Jones' house last month. Grant adjustment is not available.

HANDBOOK ENDS HERE

- (d) The offset agreement shall provide that during the period the offset is in effect it is the responsibility of the provider to inform the county of circumstances under which continued payment offset may result in insufficient funds to provide adequate care and supervision to all children in care.

45-305	COLLECTIBLE AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS; METHODS OF OVERPAYMENT RECOVERY	45-305
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(Continued)

- (e) The agreement shall provide that by agreeing to a voluntary grant offset the provider is waiving rights to appeal the overpayment determination and the amount of the overpayment, pursuant to MPP Section 22-003.15.

HANDBOOK BEGINS HERE

MPP Section 22-003.15 provides:

"There is no right to a state hearing regarding overpayments made to foster care providers including group homes and foster family agencies where the claimant entered into a voluntary repayment agreement, or where the county requested voluntary repayment under MPP Section 45-305.231."

HANDBOOK ENDS HERE

- (f) The agreement can be amended only by written consent of both parties.

.3 Involuntary Repayment Procedures

.31 Involuntary repayment procedures shall only be used when a provider has refused to enter a voluntary repayment agreement or has failed to comply with the terms of a voluntary repayment agreement that is based on a legally collectible overpayment.

.32 Grant Adjustments

.321 Grant adjustments shall only be used where the provider is still providing foster care services to the child for whom the overpayment was assessed. An involuntary grant offset is not available where the provider is only providing services to a different foster child(ren) than the child for whom the overpayment was assessed.

- (a) If the overpayment is to be recovered by grant adjustment, the county shall deduct no more than 10 percent of the total grant amount each month.

45-305 COLLECTIBLE AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS; METHODS OF OVERPAYMENT RECOVERY **45-305**
(Continued)

HANDBOOK BEGINS HERE

Example: Provider Jones has three foster children in her home, Jenny, Johnny and Joe. An overpayment in the amount of \$400 is assessed for Joe. Joe's monthly payment is \$408. The provider refuses to enter into a voluntary repayment agreement; the county institutes an involuntary grant adjustment. \$40 is subtracted from Joe's monthly payment, for a total monthly payment of \$368. For 10 months. Neither Jenny nor Johnny's payments are reduced.

	\$408 (monthly grant)
x	.10% (maximum)
	\$ 40 (amount to be deducted from monthly grant)
	\$408 (monthly grant)
-	\$ 40
	\$ 368 (new monthly grant for 10 months)

HANDBOOK ENDS HERE

- (b) At no time shall any amount be deducted from the grant of a child other than the child for whom the overpayment was assessed.
-

HANDBOOK BEGINS HERE

Example: Provider Jones has three foster children in her home, Jenny, Johnny and Joe. An overpayment in the amount of \$400 is assessed for Fred who had lived in provider Jones' house last month. Grant adjustment is not available.

HANDBOOK ENDS HERE

- (c) The county shall reduce the grant adjustment amount if the county determines that the reduction is necessary to ensure that sufficient funds exist to provide adequate care and supervision to all children in care after the deduction.

45-305 COLLECTIBLE AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS; METHODS OF OVERPAYMENT RECOVERY **45-305**
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- (d) The grant adjustment shall provide that during the period the offset is in effect it is the responsibility of the provider to timely inform the county of circumstances under which continued payment offset may result in insufficient funds to provide adequate care and supervision to all children in care.

.33 Interest on Overpayments

.331 The county shall collect interest on overpayments in circumstances in which the overpaid provider has either failed to enter into a voluntary repayment agreement, or has failed to comply with the terms of a voluntary overpayment agreement, unless:

- (a) An overpayment was made to a foster family home, an approved home of a relative, an approved home of a nonrelative extended family member, or an approved home of a nonrelative legal guardian, for any period of time in which the foster child was not cared for in that home and none of the following conditions existed:

- (1) The child was temporarily absent from the home and payment was made to the provider to meet the child's needs; or
- (2) The overpayment was exclusively the result of county administrative error; or
- (3) The provider did not have knowledge of, and did not contribute to the cause of the overpayment.

- (b) Interest collection would cause a financial hardship for the provider to provide adequate care and supervision to all children in care.

.332 The amount of interest shall be calculated in accordance with Welfare and Institutions Code Section 11466.22(d)(4).

.34 Unless otherwise provided for in this section, the county shall collect group home provider and foster family agency overpayments in accordance with the procedures established for group home overpayments pursuant to MPP Section 11-402.66. For purpose of this section, the term "county" shall be substituted for the word "department" wherever that term appears in MPP Section 11-402.66.

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.35 Civil Judgment

If the provider has failed to comply with voluntary repayment agreement, a demand for repayment, and a grant offset is not available as the provider is no longer providing services to the child for whom the overpayment was assessed, the county shall, unless the costs exceed the amount of the overpayment:

- .351 Refer the case to the appropriate county official for action on a civil judgment.
- .352 Record an abstract of civil judgment pursuant to Section 674, Code of Civil Procedure, in any county in which the provider or former provider owns real property.
- .353 Take all appropriate actions pursuant to Section 681 et seq., Code of Civil Procedure, to execute the judgment.
- .354 If the county does not pursue civil judgment because the cost for the above described actions exceed the amount of the overpayment, the county shall comply with the documentation requirements set forth in MPP Section 45-304.125(c).

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33. Reference: Sections 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code.

45-306 INFORMAL AND FORMAL HEARING PROCEDURES 45-306

This section applies only to the appeal rights of providers subject to a collectible overpayment assessment pursuant to Section 45-304 and Section 45-305. This informal and formal hearing processes are not available to providers, who have entered into a voluntary repayment agreement, to contest the overpayment determination or the overpayment amount.

- .1 The informal hearing process shall not preclude the provider's right to a state hearing.
- .2 Counties shall provide informal hearings in accordance with the following procedures:
 - .21 Counties must provide written notice to the provider of the availability of an informal hearing process when the county notifies the provider of the overpayment. The county shall send the Statewide form NA 1261 (6/09), to the provider.
 - .22 An informal hearing shall be provided by the CWD to the provider only when the provider has requested an informal hearing no later than 30 calendar days after the Statewide form NA 1261 was mailed by the county to the provider.
 - .23 The informal hearing shall be conducted by a person designated by the county. The designated person shall be knowledgeable in the subject area, and shall not be the person who made the initial overpayment determination.
 - .24 The informal hearing shall be held in an office or facility of the CWD. If agreed upon by the provider and the county, the informal hearing may be held elsewhere or conducted by telephone.
 - .25 The CWD shall mail or deliver to the provider the county's written notice of the time and place of the informal hearing not less than seven days prior to the hearing.
 - .26 The informal hearing shall be limited to consideration of the correctness of the initial overpayment determination and whether any of the factors in Section 45-304.123 bar recovery. The county may also discuss the methods of overpayment recovery with the provider and attempt to enter into a voluntary repayment agreement, where appropriate.
 - .27 After the hearing, the county employee who conducted the informal hearing shall prepare a letter which contains the decision on each issue considered at the informal hearing, and identification of the regulations which support the written decision and mail the letter to the provider. The letter must inform the provider that he or she can appeal the informal hearing decision at a formal state hearing.

45-306	INFORMAL AND FORMAL HEARING PROCEDURES (Continued)	45-306
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Example: Through application of procedures identified in Section 45-304.1, the county determines an overpayment was made to a group home provider on January 2nd. The county implements procedures identified in Section 45-304.2 and proceeds to Section 45-305 for collection procedures.

The county provides written notification to the provider of the overpayment in accordance with Section 45-305.1. **Hearing procedures identified in Section 45-306 only apply to the appeal rights of providers subject to collectible overpayment assessments pursuant to Section 45-304 and Section 45-305.**

The county provides appeal rights at the time the county notifies the provider of the overpayment. The provider may or may not request an informal hearing within 30 calendar days of the date the notice to the provider was mailed.

If the provider does not request an informal hearing within 30 calendar days of the date the notice to the provider was mailed, the overpayment determination is sustained upon the 91st day, and therefore identified and the federal share of the overpayment must be repaid by the county, as identified in Section 45-304.53.

If the provider requests an informal hearing within 30 calendar days of the date the notice to the provider was mailed, the county must mail or deliver to the provider a written notice of the time and place of the informal hearing. The hearing shall be conducted in accordance with Sections 45-306.23, .24, .26, and .27.

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- .3 If a provider requests an informal hearing, the 90-day period to request a formal hearing under MPP Section 22-009.11 shall be suspended. The 90-day period to request a formal hearing shall start when the county issues an informal hearing decision, or when the provider either withdraws their request for the informal hearing, or fails to appear for the informal hearing, whichever occurs first.

45-306	INFORMAL AND FORMAL HEARING PROCEDURES (Continued)	45-306
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Example #1: A provider requests and receives an informal hearing. The county provides a written decision mailed to the provider as identified in Section 45-306.27. The provider has a right to request a formal hearing of the written decision within 90 days of the date the decision letter was mailed.

Informal hearing held on January 31st. County prepares a letter identifying the decisions on each issue considered at the informal hearing in accordance with Section 45-306.27 and mails the decision letter on February 8th. The provider receives the letter and has 90 days from February 8th to request a formal hearing. The county must receive a request for a formal hearing from the provider no later than May 7th.

Example #2: A provider requests an informal hearing and subsequently withdraws the request for the informal hearing. The date the provider withdraws the request for the informal hearing begins the 90-day period to request a formal hearing.

The provider was scheduled for an informal hearing on January 31st. The provider withdrew the request for an informal hearing on January 28th. The county must receive a request for a formal hearing from the provider no later than April 26th.

Example #3: A provider requests an informal hearing and fails to appear on the scheduled date and time. The date the provider fails to appear for the scheduled informal hearing begins the 90-day period to request a formal hearing.

The hearing is scheduled for January 31st and the provider's notice is mailed 7 days prior to the hearing by the county. The provider fails to appear for the informal hearing. The county must receive a request for a formal hearing from the provider no later than April 29th.

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Section 33. Reference: Sections 11466.235 and 11466.24, Welfare and Institutions Code.

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