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Regulation Package No. 0614-05

CDSS MANUAL LETTER NO. CWS-16-02

TO: HOLDERS OF THE CHILD WELFARE SERVICES MANUAL, DIVISION 31

Regulation Package #0614-05

Effective 10/1/16

Sections 31-001, 31-002, 31-003, 31-005, 31-040, 31-066, 31-075, 31-101, 31-105, 31-110, 31-115, 31-120, 31-125, 31-135, 31-136, 31-201, 31-205, 31-206, 31-310, 31-315, 31-335, 31-405, 31-406, 31-410, 31-420, 31-425, 31-430, 31-445, 31-510, 31-515 and 31-520

This manual letter has been posted on the Office of Regulations Development website at <http://www.cdss.ca.gov/ord/PG603.htm>.

Current laws and regulations provide procedures for county social workers in dealing with Indian child welfare, including but not limited to, adoption, placement, custody, and working with Indian tribes and California child welfare agencies.

These regulation changes are made for purposes of clarity and non-duplication as the requirements that were included in repealed Sections 31-515 and 31-520 are now included throughout the Manual of Policies and Procedures (MPP) Division 31 regulations and were amended because of Senate Bill (SB) 678 (Statutes of 2006).

Until now, the Indian Child Welfare Act (ICWA) requirements were separated from the rest of Division 31 regulations located in Sections 31-515 and 31-520. Feedback from social workers and stakeholders was that keeping the related standards and requirements separate from the rest of Division 31 regulations as Special Requirements, at Chapter 31-500 in Sections 31-515 and 31-520, diminished the extent to which compliance with ICWA occurs because the ICWA requirements are more likely to be overlooked during the different stages of a child's case when an ICWA standard is required. This modification, to include ICWA standards throughout Division 31, adds clarity and consistency by addressing each ICWA requirement at the various points in the life of a child's child welfare case when the ICWA requirements are applicable.

SB 678 was passed to incorporate into various state codes minimum federal standards for Indian child custody proceedings as required by the ICWA of 1978 (Public Law 95-608) codified at Title 25 Section 1901, et. seq., of the United States Code.

The requirements specified by SB 678 apply at specific points throughout a child's case. State child welfare agencies and State courts must follow these requirements when removing Indian children from their homes and placing them into foster care or adoptive homes. Further, during the processing of these regulations, the 2015 Bureau of Indian Affairs Guidelines were released and addressed within this rulemaking effort.

The anticipated benefits of the changes to the Division 31 Regulations improve state and county compliance with the requirements of the federal mandates of ICWA, as well as state law compliance regarding county child welfare service agencies involving Indian children. These changes will: 1) greatly improve the working relationship between the State and California Tribes; 2) promote better collaboration between child welfare agencies and tribes; and 3) produce better outcomes for Indian children that come into contact with California child welfare agencies.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin.

The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Child Welfare Services changes was Manual Letter No. CWS-16-01.

| <u>Page(s)</u> | <u>Replace(s) Page(s)</u> |
|-------------------|---------------------------|
| 5 through 6 | 5 and 6 |
| 8.1 and 8.2 | 8.1 and 8.2 |
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Attachment

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DIVISION 31 CHILD WELFARE SERVICES PROGRAM

CHAPTER 31-000 GENERAL REQUIREMENTS

31-001 GENERAL 31-001

- .1 The requirements specified in Sections 31-005 through 31-525 shall be met by the county in the administration of child welfare services.
- .2 The requirements specified in Section 31-001 through Section 31-525 shall be met by county probation departments when placing children in out-of-home care.
- .3 The following special provisions shall also apply:
 - .31 Provision of services to a child or family when the child is under the jurisdiction of Interstate Compact on the Placement of Children shall be subject to the additional requirements specified in Section 31-510.
 - .32 Provision of services to an Indian child shall be subject to the additional requirements integrated throughout Division 31 Chapters 31-000 through 31-500.
 - .33 When considering the "best interest of the child" social workers must adhere to Welfare and Institutions Code section 224(a)(2), which specifies that it is in the best interest of an Indian child that the connection to its tribe and tribal community is encouraged and protected regardless of whether the child is in the physical custody of the Indian parent or Indian custodian(s) at the commencement of a child custody proceeding, the parental rights of the child's parents have been terminated or where the child has resided or been domiciled. In assessing whether there is a sufficient basis to ask the court to make a finding of good cause as later used in this Division, a social worker shall consider that the Indian Child Welfare Act (ICWA) 25 USC 1902, seeks to protect not only the rights of the Indian child but the rights of Indian communities and tribes in retaining their Indian children.
 - .34 Provision of services to each child in placement age 16 or older shall be subject to the additional requirements specified in Section 31-525.
 - .35 Provision of services to a child or family when the child is placed out-of-county shall be subject to the additional requirements specified in Section 31-505.
 - .36 Pursuant to Section 472 of the Social Security Act and Welfare and Institutions Code Sections 727 and 11404, a written agreement shall be in effect between the probation department and the welfare department in order to claim federal and/or state AFDC-FC for costs of care for foster children supervised by a probation department.

31-001 **GENERAL** (Continued) **31-001**

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Chapter 29-400 of the Manual of Policies and Procedures (MPP) provides in Handbook a sample of the written agreement executed between the probation department and county welfare department, along with the requirements for maintenance of these agreements.

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NOTE: Authority Cited: Sections 10553, 10554, 16520, and 16521, Welfare and Institutions Code and Assembly Bill 1695, Section 21, Chapter 653, Statutes of 2001. Reference: Sections 224, 361.2, 727, 11404, 16520, and 16521, Welfare and Institutions Code; Section 7901, Family Code; 25 USC 1901 et seq.; and 42 USC 671(a)(15), 675 and 677.

31-002 **DEFINITIONS** **31-002**

- (a) (1) "Active Efforts" mean, in the case of an Indian child, those efforts intended primarily to maintain and reunite an Indian child with his or her family or tribal community and includes all actions taken by a county to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. Active Efforts must take into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe and utilize the available resources of the child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers, as further specified in Section 31-135.23 and Section 31-420.3 with respect to the Active Efforts to comply with ICWA placement preferences. Examples of Active Efforts are in the Handbook below.

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2015 BIA Guidelines section A. 2 provides the following examples of Active Efforts:

- "(A) Engaging the Indian child, the Indian child's parents, extended family members, custodian(s);
- (B) Taking steps necessary to keep siblings together;
- (C) Identifying appropriate services and helping the parents to overcome barriers, including actively assisting the parents to obtain such services;
- (D) Identifying, notifying and inviting representatives of the Indian child's tribe to participate;
- (E) Conducting or causing to be conducted a diligent search for the Indian child's extended family members for assistance and possible placement;

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- (F) Taking into account the Indian child's tribe's prevailing social and cultural conditions and way of life and requesting the assistance of representatives designated by the Indian child's tribe with substantial knowledge of the prevailing social and cultural standards;
- (G) Offering and employing all available and culturally appropriate family preservation strategies;
- (H) Completing a comprehensive assessment of the circumstances of the Indian child's family, with a focus on safe reunification as the most desirable goal;
- (I) Notifying and consulting with extended family members of the Indian child to provide family structure and support for the Indian child, to assure cultural connections, and to serve as placement resources for the Indian child;
- (J) Making arrangements to provide family interaction in the most natural setting that can ensure the Indian child's safety during any necessary removal;
- (K) Identifying community resources including housing financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Indian child's parents or extended family in utilizing and accessing those resources;
- (L) Monitoring progress and participation in services;
- (M) Providing consideration of alternative ways of addressing the needs of the Indian child's parents or extended family, if services do not exist or if existing services are not available;
- (N) Supporting regular visits and trial home visits of the Indian child during any period of removal, consistent with the need to ensure the safety of the child; and
- (O) Providing post-reunification services and monitoring."

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- (2) "Administrative review" means a review open to the participation of the parents of a child in foster care conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

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- | (3) "Adult" means a person 18 years of age or older.
- | (4) "Advocate" means the person or persons authorized to provide advocacy services pursuant to Section 5520 et seq. of the Welfare and Institutions Code.
- | (5) "Agreement" means a written document signed by two or more persons specifying what each person plans and agrees to do and/or not do with regard to accomplishing specifically stated objectives.
- | (6) "Aid to Families With Dependent Children – Foster Care (AFDC-FC)" means aid provided on behalf of needy children in foster care who meet the eligibility requirements as specified in CDSS regulations and in applicable state and federal laws.
- | (7) "Approval Agency" means the agency that has the responsibility to approve the homes of relative and non-relative extended family members as meeting the same standards as those set forth in California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3.
- | (8) "Approval Document" means a non-transferable form by which the approval agency certifies a specific relative or nonrelative extended family member at a specific location meets the standards as specified in California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, and includes any documented alternative plan.
- | (9) "Approval Standards" means the caregiver standards as set forth in California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3 and MPP Section 31-445 that must be met before a foster family home license or approval can be issued.
- | (10) "Approved Foster Family Home" means the home of a relative or nonrelative extended family member that is exempt from licensure and approved as meeting the same standards as licensed foster family homes as set forth in Foster Family Home Regulations, Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3. For the purposes of this section, an “approved foster family home” shall include the home of a person related to the child by birth or adoption within the fifth degree of kinship, as defined in Welfare and Institutions Code Section 361.3(c)(2), regardless of whether the parent’s rights to the child have been terminated or relinquished.
- | (11) "Assessment" means a written document which contains information relevant to the case situation and an appraisal of case services needs.

31-002 DEFINITIONS (Continued) 31-002

- (23) "Conservator" means a person appointed pursuant to Section 5350 of the Welfare and Institutions Code. In the event a child has a conservator and a parent(s), the conservator's authority to consent to placement and treatment shall take precedence.
- (24) "Consultation" means activity on the child's behalf in which county staff or a third person or organization seek the expertise of the other.
- (25) "Contact" means contact in person, in writing, or by telephone by a social worker or other persons authorized by the Division 31 regulations to make case contacts with the child, parent(s)/guardian(s)/Indian custodian(s), the child's tribe, tribal service providers, out-of-home care providers, Indian organizations, and/or other persons involved in the case plan (e.g., siblings, other relatives).
- (26) "Contiguous County" means counties whose borders touch on one side. County borders that are separated by a body of water are considered to be contiguous.
- (27) "Conviction" means:
 - (A) A criminal conviction in California; or
 - (B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.
- (28) "Coordination" means activity on the child's behalf in order to integrate the activities of county staff and third persons or organizations in solving a specific problem.
- (29) "Counseling" means assisting the child and his/her family to analyze and better understand the situation; select methods of problem-solving; identify goals; and explore alternative behavior.
- (30) "County" means a county welfare or social services department.
- (31) "County Deputy Director" means that position in the county that is responsible for countywide supervision of the county's Child Welfare Services program.
- (32) "County of Residence" means the county in which the child resides.
- (33) "County Plan" means, for the purpose of the Independent Living Program, a written document for the federal fiscal year that describes the county programs, goals and objectives to meet the services needs and activities of ILP youth.

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- | (34) "County Staff" means those public employees responsible, directly or indirectly, for the delivery or authorization for the delivery of social services, and whose salaries or wages are funded in whole or in part through the Social Security Act Titles IV-B or IV-E, or Title XX (as described in the child welfare services component of the California Department of Social Services publication "Title XX Block Grant Preexpenditure Report"). This does not include employees of contract agencies under contract to the county for the delivery of social services or individual contractors.

- | (35) "California Law Enforcement Telecommunications System (CLETS)" means law enforcement or other governmental agency maintained state summary of a person's criminal history information pursuant to Welfare and Institutions Code Section 16504.5.

- | (36) "Criminal Records Check" means an inquiry into the CLETS and the submission of two sets of fingerprints to the Department of Justice for the purpose of reviewing a person's criminal history in accordance with Health and Safety Code Section 1522.1.

- | (37) "Criminal Records Clearance" means an individual has a California Department of Justice clearance and an FBI clearance or evidence of compliance with FBI requirements as specified in Health and Safety Code Section 1522(d)(1)(D).

- | (38) "Crisis intervention" means determining the cause of the crisis; offering support to all family members; defusing the situation; and assessing the potential for harm to all family members.

- (d) (1) "Day care" means day care as described by Health and Safety Code Section 1596.750 in defining a child day care facility.

- (2) "Department" means the California Department of Social Services (CDSS).

- (3) "Discharge Plan" means a systematic, coordinated transition plan created for a child under the age of six who is leaving a group home placement to return to family or kin or to a foster family home placement in which the social worker prescribes the follow-up services to be provided to support the child and the child's family and the duration of such services.

- (4) "Documented Alternative Plan" means a written authorization for a foster family home to use an alternative, based on a unique need or circumstance specific to a child being considered for placement, to meet the intent of a specified standard as permitted in California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3.

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- (7) "Foster Care" means, for purposes of the Independent Living Program (ILP), 24 hour substitute care for children placed away from their parents or guardians and for whom the state or county agency has placement and care responsibility and who are likely to remain in foster care until age 18.

- (8) "Foster care" means the provision of 24-hour care and supervision to a child who has been placed by a child placing agency, including county child welfare services and probation departments, in one of the following types of foster homes:
 - (A) A licensed foster family home.
 - (B) A licensed small family home.
 - (C) A family home certified by a licensed foster family agency for its exclusive use.
 - (D) An approved foster family home.
 - (E) A licensed group home for children.
 - (F) A home, pursuant to a court order or voluntary placement agreement.
 - (G) A tribally licensed or approved home, in the case of an Indian child.
 - (H) A Tribally Specified Home, in the case of an Indian child, which may include any of the above.

- (9) "Foster family agency" means any 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.

- (10) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. A foster family home may also be authorized to provide care for more than six children for the purpose of keeping siblings together provided that the conditions of Health and Safety Code Section 1505.2 are met.

- (11) "Foster parent" means a person whose home is licensed or approved as a foster family home or licensed as a small family home or certified by a licensed foster family agency for 24-hour care of children, and a person who has the responsibility for the provision of foster care pursuant to a court order or voluntary placement agreement.

31-002 **DEFINITIONS** (Continued) **31-002**

- (g) (1) "Grievance" means an expression of dissatisfaction with a child-placing agency's procedures or actions, as such procedures or actions relate to the placement or care of a child in, or removal of a child from, a particular foster home.
- (A) "Grievance review agent" means the person or panel designated by the director of the child-placing agency to conduct the grievance review and render a recommended decision to the director of the agency.
- (B) "Party to grievance review" means a foster parent, legal parent, legal guardian, or child requesting the review; and the child-placing agency responsible for the action upon which the complaint is based.
- (2) "Group home" means a nondetention privately operated residential home 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.
- (3) "Guardian" means a person appointed by the superior court pursuant to the provisions of Probate Code section 1514, or appointed by the juvenile court pursuant to the provisions of Welfare and Institutions Code sections 360, 366.26, or 728(d).

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- (A) See Section 31-002(k)(3) for a definition of "kinship guardian."

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- (h) Reserved
- (i) (1) "Independent Living Program (ILP)" as defined in Section 477 of the Social Security Act means the program administered by counties with oversight by the Department to provide services and activities as described by the childrens' Transitional Independent Living Plans (TILPs) to assist eligible children up to the day prior to their 21st birthday to prepare them to live independently upon leaving foster care.
- (A) Repealed by Manual Letter No. CWS-02-01, effective 7/1/02.
- (2) "Independent Living Program Coordinator" means the individual who is either an employee of the county or its designee/contractor and who is responsible for administering the ILP to all eligible youth.
- (3) "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.

31-002 **DEFINITIONS** (Continued) **31-002**

- (A) "Indian child" means an unmarried person who is under age 18 and is either (a) a member of an Indian tribe or (b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.
1. Where the Indian child's dependency case continues beyond age 18, the child will continue to be defined an Indian child up to age 21, in which case ICWA standards will continue to apply. This provision in the statute allows a child, or an attorney on the child's behalf, to choose to no longer have ICWA applied to their case.

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The Welfare and Institutions Code section 224.1(b) states "As used in connection with an Indian child's dependency proceeding, the term "Indian child" also means an unmarried person who is 18 years of age or over, but under 21 years of age, who is a member of an Indian tribe or eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe, and who is under the jurisdiction of the dependency court, unless that person or his or her attorney elects not to be considered an Indian child for purposes of the Indian child custody proceeding."

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- (B) "Indian child's extended family" means "extended family" as defined by the law or custom of the Indian child's tribe; or, in the absence of such a law or custom, a person 18 years of age or over who is the Indian child's grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first or second cousin, or stepparent.
- (C) "Indian child's parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. The term does not include the unwed father who has failed to promptly come forward and demonstrate full commitment to his parental responsibilities or who has failed to take reasonable steps to establish paternity including establishing paternity through DNA testing or acknowledging paternity in the action at issue.
- (D) "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.

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- (E) "Indian Child Welfare Act (ICWA)" means the Indian Child Welfare Act, codified in 25 U.S.C. Chapter 21, 1901, et seq. which sets forth the federal law that establishes minimum federal standards that must be applied in state child custody proceedings involving an Indian child.

- (F) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law; or to whom temporary physical care, custody and control has been transferred by the parent(s) of such Indian child.

- (G) "Indian organization" means a group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians.

- (H) "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.

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- (4) "Individualized Education Program (IEP)" means an individualized education program for children with identified special educational needs. The IEP is developed by an individualized education program team which consists of a representative other than the child's teacher designated by the school administration, the child's present teacher, or the teacher with the most recent and complete knowledge of the child who has also observed the child's educational performance, and one or both of the child's parents. The IEP includes the identification of educational needs, assessment, instructional planning, and placement.

- (5) "Infant" means a child under two years of age.

- (6) "Information" means enabling a person to have current, accurate knowledge regarding available public and private resources established to help relieve socio-health problems.

- (7) "Interagency Placement Committee" means a committee established by the county, with a membership that includes at least the county placement agency and a licensed mental health professional from the county department of mental health pursuant to Section 4096(c) of the Welfare and Institutions Code.

- (8) "Interstate Compact on the Placement of Children (ICPC)" means a legislatively ratified administrative process between member states to safeguard the interests of children who are placed in one state by an agency of another state.
 - (A) "Appropriate public authority" means the state's Interstate Compact Administrator.
 - (B) "Receiving agency" means a person or entity designated to receive any child from another party state.
 - (C) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

- (j) Reserved

- (k) (1) "Kinship Adoption" means the adoption of a dependent child by a relative or a relative of the child's half-sibling as defined in Family Code Section 8714.5, which may be accompanied by a kinship adoption agreement.
 - (2) "Kinship Adoption Agreement" means a written agreement pursuant to Family Code Section 8714.7.
 - (3) "Kinship guardian," as defined by Welfare and Institutions Code sections 11362(b) and 11391(b), means a person who meets both of the following requirements:

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- (3) "Licensing agency" means, for purposes of the Child Abuse and Neglect Reporting Act, the CDSS office responsible for the licensing and enforcement of the California Community Care Facilities Act, the California Child Day Care Act, or the county licensing agency which has contracted with the state for performance of those duties.

- (m) (1) "Mandated reporter" means a person who, pursuant to the Child Abuse and Neglect Reporting Act, is required to report knowledge or reasonable suspicion of child abuse which is obtained while acting in a professional capacity or within the scope of his/her employment. Such persons include child care custodians, health practitioners, employees of child protective agencies, child visitation monitors, and commercial film and photographic print processors, pursuant to Penal Code Sections 11165 through 11166.

- (2) "Minor" means a person under 18 years of age; or a person 18 years of age who is in a high school or vocational/technical program, provided that he/she will complete such program before he/she reaches 19 years of age.

- (3) "Minor parent" means anyone under the age of 18 years who is either pregnant or the custodial parent of a child and who has never been married.

- (4) "Minor Parent Services (MPS)" means home-based services provided to the minor parent and her/his child(ren), designed to support families and provide education to minor parents about issues such as infant health and development, nutrition, parenting skills, and life skills. Minor parent services shall include, but are not limited to, appropriate periodic in-home visits; on-going assessment of the infant and minor parent's circumstances and conditions; and referrals to appropriate community services to meet the specific safety needs of the minor parent and her/his child(ren).

- (5) "Multidisciplinary Personnel Teams," as defined in Welfare and Institutions Code Section 18951(d), means any team of three or more persons who are trained in the prevention, identification and treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse. The team may include, but shall not be limited to:
 - (A) Psychiatrists, psychologists, county mental health, or other trained counseling personnel.

 - (B) Police officers or other law enforcement agents including, but not limited to, county probation.

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- (C) Medical personnel with sufficient training to provide health services.
 - (D) Social workers with experience or training in child abuse prevention.
 - (E) Any public or private school teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee.
- (n) (1) "Neglect" means the failure to provide a person with necessary care and protection. In the case of a child, the term refers to the failure of a parent(s)/guardian(s) or caretaker(s) to provide the care and protection necessary for the child's healthy growth and development. Neglect occurs when children are physically or psychologically endangered. The term includes both severe and general neglect as defined by Penal Code Section 11165.2 and medically neglected infants as described in 45 Code of Federal Regulations (CFR) Part 1340.15(b).
- (2) "Non-custodial Parent" means the parent of a child removed from home pursuant to Welfare and Institutions Code Section 361, with whom the minor was not residing at the time that the events or conditions arose that brought the minor within the provisions of Welfare and Institutions Code Section 300, who desires to assume custody of the minor.
- (3) "Non-Federally-Recognized Tribe(s)" means an Indian tribe, band, nation or other organized group or community of Indians that is not recognized by the Secretary of the Interior as eligible for the federal services provided to Indians.
- (4) "Nonminor former dependent" means, on and after January 1, 2012, either of the following pursuant to Welfare and Institutions Code section 11400(aa):
- (A) A person who reached 18 years of age while subject to an order for foster care placement, and for whom dependency, delinquency, or transition jurisdiction has been terminated, and who is still under the general jurisdiction of the court; or
 - (B) A person who is at least 18 years of age, up to and including the day prior to his or her 21st birthday, who was a dependent child or ward of the juvenile court when the guardianship was established pursuant to Welfare and Institutions Code sections 360, 366.26 or 728(d) and the juvenile court dependency or wardship was dismissed following the establishment of the guardianship.
- (5) "Nonrelative extended family member" means any adult caregiver who has an established familial or mentoring relationship with the child as substantiated by interviews with the parent and child or with one or more third parties as required in Welfare and Institutions Code Section 362.7.
- (o) (1) "Out-of-home care provider" means a person or entity who provides foster care.
- (p) (1) "Parent" means the natural or adoptive father or mother, whether married or unmarried; or other adult fulfilling the parental role.

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- (2) "Parenting training" means child development, home management and consumer education provided through social services and/or specialized formal instruction and practice in parenting skill achievement in accordance with Welfare and Institutions Code Section 16507.7.
- (3) "Permanency Alternative" means the type of permanency, i.e., adoption, Tribal Customary Adoption in the case of an Indian child, guardianship, and long-term foster care, or a plan for transitional independent living pursuant to Section 31-525, selected for the child if family reunification fails.
- (4) "Permanency Planning Family" means the home of a relative, a licensed foster family home as defined in Health and Safety Code Section 1502(a)(5), or a certified family home as defined in Health and Safety Code Section 1506(d) willing to assist in implementation of the child's case plan by facilitating family reunification while being prepared to provide the child with legal permanence should family reunification fail.
- (5) "Permanent placement services" means those services described in Welfare and Institutions Code Section 16501(i).
- (6) "Planning" means activity in which county staff and the child and/or his/her family mutually identify a specific goal, the specific services to be used in resolving identified problems, and service delivery methods.
- (7) "Preferential Consideration" means that relatives seeking placement for a child or relatives identified by the social worker as willing to care for a child shall be the first to be considered and investigated in determining the placement. Only the following relatives shall be given preferential consideration for placement of the child: a non-custodial parent as defined in Section 31-002(n)(2), or an adult who is a grandparent, aunt, uncle, or sibling of the child.
- (8) "Pre-placement preventive services" means those services designed to help children remain with their families by preventing or eliminating the need for removing the child from the home. In the case of an Indian child, pre-placement preventive services include Active Efforts consistent with Section 31-135.23 designed to prevent the breakup of the Indian family pre-placement preventive services are early intervention services, emergency response services and family maintenance services.
- (9) "Primary Caregiver" means the nurturing adult who is assigned to specific children under the age of six for the duration of their stay in a county operated emergency shelter care facility. The Primary Caregiver provides the major portion of daily care as described in Section 31-002(p)(8) during normal working hours for their assigned children and who is not assigned more than three children at any time.
- (10) "Primary Caregiver Duties" shall be to meet the needs of the child in the following areas: physical health and well-being, self-care, motor skills, social skills, emotional development, cognition, language and communication, and other child care worker duties as defined in Title 22, Section 84065.2(b).

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31-002 **DEFINITIONS** (Continued) **31-002**

- (q) (1) "Qualified expert witness" means a person required to testify in an Indian child custody proceeding on whether continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. A qualified expert witness should have specific knowledge of the Indian tribe's culture and customs. A qualified expert witness may include, but is not limited to, a social worker, sociologist, physician, psychologist, traditional tribal therapist and healer, tribal spiritual leader, tribal historian, or tribal elder, provided the individual is not an employee of the person or agency recommending foster care placement or termination of parental rights.

31-002 **DEFINITIONS** (Continued) **31-002**

- (r) (1) "Recruitment" means activity to find and develop resources which are necessary but do not exist, or which exist but must be expanded.
- (2) "Referral to community agency" means informing another service agency that a child and/or that child's family desires or requires that agency's services; and assisting the child and/or family to avail themselves of such services.
- (3) "Relinquishment of a Child" means the action of a relinquishing parent who signs a relinquishment document in which he or she surrenders custody, control and any responsibility for the care and support of the child to the Department or any licensed public or private adoption agency pursuant to Family Code Section 8700.
- (4) "Representative" means a person authorized by a party to a grievance review, or by specified administrative review hearing participants, to act for and represent that party or participant in any and all aspects of a grievance procedure or administrative review hearing.
- (5) "Relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "step," "great," "great-great," or "grand," or the spouse of any of these persons even if the marriage was terminated by death or dissolution. For the purposes of preferential consideration for placement of a child, "relative" means an adult who is a grandparent, aunt, uncle, or sibling of the child.
- (A) For the purposes of federal Kin-GAP only, "relative" also means any of the adults specified in Welfare and Institutions Code sections 11391(c) and (c)(2) through (c)(4).

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- (B) Welfare and Institutions Code sections 11391(c) and (c)(2) through (c)(4) provide:

"(c) "Relative," . . . means any of the following [for the purposes of federal Kin-GAP only]:

. . . (2) An adult who meets the definition of an approved, nonrelated extended family member, as described in Section 362.7.

(3) An adult who is either a member of the Indian child's tribe, or an Indian custodian, as defined in Section 1903(6) of Title 25 of the United States Code.

(4) An adult who is the current foster parent of a child under the juvenile court's jurisdiction, who has established a significant and family-like relationship with the child, and the child and the county child welfare agency, probation department, Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement pursuant to Section 10553.1 identify this adult as the child's permanent connection."

HANDBOOK ENDS HERE

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| 31-002 | DEFINITIONS (Continued) | 31-002 |
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- (t) (1) "Teaching and demonstrating homemaker" means a person who provides homemaking instruction, through discussion and example, to parent(s)/guardian(s), or other adult(s) fulfilling the parental role, and/or families when parent/guardian functioning can be improved by teaching more effective child care skills and home maintenance. Although this instruction does not include the routine provision of regular homemaker services, teaching and demonstrating homemakers may provide direct child care and home maintenance services incidental to the primary goal of improving parent functioning through demonstrating and teaching the skills required to successfully manage and maintain the home and meet the needs of children in that setting. This instruction is available on a 24-hour basis as resources permit. It does not necessarily have to be provided during the presence of the parent(s)/guardian(s) in the home.

- (2) "Temporary in-home caretaker" means a person who provides temporary care to a child in the child's own home in lieu of out-of-home placement when a parent(s)/guardian(s) is unable to care for the child because of an absence or illness and there is no other caretaker available to provide necessary care. Temporary in-home caretakers do not provide routine, on-going child day care.

- (3) "Therapeutic day services" means nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to children who would otherwise be placed in foster care or who are returning home from foster care.

- (4) "Transitional Independent Living Plan (TILP) for the purposes of the Independent Living Program" means the written service delivery plan, available on the Child Welfare Services/Case Management Services (CWS/CMS) that identifies the youth's current level of functioning, emancipation goals and the specific skills needed to prepare the youth to live independently upon leaving foster care. The plan is mutually agreed upon by the youth and the social worker/probation officer.

- (5) "Transitional independent living plan" means the portion of the child's case plan that describes the programs and services, including employment and savings, as appropriate, based on an assessment of the individual child's skills and abilities, that will help the child prepare for transition from foster care to independent living.

- (6) "Transportation" means conveying a child and/or the child's family from one place to another when mobility is necessary to support a specific case plan, and no other means of conveyance is available.

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| 31-002 | DEFINITIONS (Continued) | 31-002 |
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- (7) "Tribal Agency", for purposes of Welfare and Institution Code section 10553.12 background check certifications, means an entity designated by a federally recognized tribe as authorized to approve a home consistent with the ICWA, for the purpose of placement of an Indian child into foster or adoptive care, including the authority to conduct a criminal or child abuse background check of, and grant exemptions to, an individual who is a prospective foster parent or adoptive parent, an adult who resides or is employed in the home of an applicant for approval, any person who has a familial or intimate relationship with any person living in the home of an applicant, or an employee of a Tribal Agency who may have contact with a child.

- (8) "Tribal court" means a court with jurisdiction over child custody proceedings including a Court of Indian Offenses; a court established and operated under the code or custom of an Indian tribe; or any other administrative body of a tribe which is vested with authority over child custody proceedings.

- (9) "Tribal Customary Adoption" means an adoption of an Indian child who is a dependent of a county court and that, pursuant to Welfare and Institutions Code section 366.24, is finalized by and through the customs, laws or traditions of the child's tribe. Termination of parental rights is not required to effectuate the adoption.

- (10) "Tribal Temporary Assistance to Needy Families (Tribal TANF)" refers to TANF program(s) operated by a federally-recognized American Indian tribe or association of tribes which have entered into an agreement with the federal government to conduct a Tribal TANF program and are authorized to provide TANF services to Indian people in the service area specified in the agreement.

31-002 **DEFINITIONS** (Continued) **31-002**

- (11) "Tribal Title IV-E Agency" means a tribe, consortium of tribes, or tribal organization that has entered into an agreement with either the state or federal government to have oversight of its own foster care program and draw down Title IV-E funding for the cases of Indian children in its care.

- (12) "Tribally Approved Home" means a home that has been licensed or approved by an Indian tribe for foster care or adoptive placements of an Indian child using standards established by the tribe pursuant to ICWA at Title 25, U.S.C. section 1915, is not required to be licensed by the state or county, and is equivalent to a state or county licensed home. Background check requirements for foster or adoptive placement as required by Health and Safety Code sections 1522 and 1522.1 apply to a Tribally Approved Home.

- (13) "Tribally Specified Home" means a home that a tribe designates as its preferred placement option for an Indian child who is in the custody of the county. This may include but not be limited to any of the placement options outlined in Section 31 002(f)(8).

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| 31-002 | DEFINITIONS (Continued) | 31-002 |
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- (u) (1) "Unfounded report" means a report of child abuse, which is determined by a child protective agency investigator to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse, as defined in Penal Code Section 11165.6.

- (v) (1) "Visit" means a face-to-face contact between:
 - (A) A child, the child's family, and/or the child's out-of-home care provider, individually or collectively; **and**, as authorized by MPP 31-320, a social worker, probation officer, foster family agency social worker, or caseworker in another state (who has case management responsibilities for the child under the ICPC); or

 - (B) A child and his/her parent(s)/guardian(s), siblings, grandparents, or others deemed appropriate by the county or juvenile court.

- (2) "Voluntary placement" means a placement described by Welfare and Institutions Code section 11400(o).

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- (A) Welfare and Institutions Code section 11400(o) provides:

"Voluntary placement" means an out-of-home placement of a child by (1) the county welfare department, probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1, 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 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 adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement."

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- (3) "Voluntary placement agreement" means the agreement described by Welfare and Institutions Code section 11400(p).

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(A) Welfare and Institutions Code section 11400(p) provides:

"Voluntary placement agreement' means a written agreement between either the county welfare department, probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1, licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a child that specifies, at a minimum, the following:

- (1) The legal status of the child.
- (2) The rights and obligations of the parents or guardians, the child, and the agency in which the child is placed."

HANDBOOK ENDS HERE

(w) Reserved

(x) Reserved

(y) (1) "Youth" means, for the purposes of the ILP, children who are at least 16 years of age up to the day prior to their 21st birthday.

(z) Reserved

NOTE: Authority Cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code and Assembly Bill 1695, Section 21, Chapter 653, Statutes of 2001. Reference: Sections 224.1, 224.6, 300, 306, 306.6, 309, 319, 360, 361, 361.2, 361.3, 361.31, 361.4, 361.7, 362.7, 366.22, 366.24, 366.26, 366.3, 391, 636.1, 706.6, 727, 727.2, 728, 4094, 4094.5, 4094.6, 4094.7, 5585.58, 5600.3, 10553, 10553.1, 10553.12, 10554, 10850.4, 11100, 11105, 11108.15, 11155.5, 11362, 11391, 11400, 11402, 11404, 11467.1, 16001.5, 16001.9, 16010, 16012, 16501, 16501.1, 16503, 16504, 16506, 16507.5, 16516.5, 16520, 16521, 17736, and 18951, Welfare and Institutions Code; Sections 11105.08, 11165 et seq., and 11170, Penal Code; Section 265, Civil Code; 25 USC 1901, 1903, 1912(d), 1915, 1919, and 1931(b), 42 USC 673, 675, 679 and 1305; 45 CFR 233.120; Sections 1502, 1505, 1505.2, 1522, 1522.06, and 1530.8, Health and Safety Code; Sections 7002, 7901, 7911, 7911.1, and 7912, Family Code; Public Law 105-89 (Adoption and Safe Families Act of 1977); and California Rules of Court, rule 5.552.

**CHILD WELFARE SERVICES PROGRAM
GENERAL REQUIREMENTS**

31-003

Regulations

31-003 DEFINITIONS – FORMS

31-003

- (a) (1) "AAP 4" (Rev. 9/13) means the form entitled "Eligibility Certification Adoption Assistance Program" hereby incorporated in its entirety by reference.
- (b) (Reserved)
- (c) (Reserved)
- (d) (Reserved)
- (e) (Reserved)
- (f) (1) "FC 2" (Rev. 11/04) means the form entitled "Statement of Facts Supporting Eligibility for Aid to Families with Dependent Children (AFDC) Foster Care" hereby incorporated in its entirety by reference.
- (2) "FC 3" (Rev. 11/04) means the form entitled "Determination of Federal AFDC-FC Eligibility" hereby incorporated in its entirety by reference.
- (3) "FC 3 A (Supplement)" (Rev. 11/04) means the form entitled "AFDC-FG/U Worksheet" hereby incorporated in its entirety by reference.
- (g) (Reserved)
- (h) (Reserved)
- (i) (1) "ICPC-100A" (Rev. 8/01) means the form entitled "Interstate Compact on the Placement of Children Request" hereby incorporated in its entirety by reference.
- (2) "ICPC-100B" (Rev. 8/01) means the form entitled "Interstate Compact on the Placement of Children Report on Child's Placement Status" hereby incorporated in its entirety by reference.
- (j) Judicial Council Forms:
 - (1) "ICWA-010(A)" (Rev. 1/08) means the form entitled "Indian Child Inquiry Attachment" hereby incorporated in its entirety by reference.
 - (2) "ICWA-020" (Rev. 1/08) means the form entitled "Parental Notification of Indian Status" hereby incorporated in its entirety by reference.
 - (3) "ICWA-030" (Rev. 1/08) means the form entitled "Notice of Child Custody Proceeding for Indian Child" hereby incorporated in its entirety by reference.
 - (4) "ICWA-030(A)" (Rev. 1/08) means the form entitled "Attachment to Notice of Child Custody Proceeding for Indian Child" hereby incorporated in its entirety by reference.

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| 31-003 | DEFINITIONS – FORMS | 31-003 |
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- (s) (1) "SOC 155C" (Rev. 1/00) means the form entitled "Voluntary Placement Agreement Parent/Agency (Indian Child)" hereby incorporated in its entirety by reference.

- (2) SOC 369 (12/10) Agency-Relative Guardianship Disclosure, hereby incorporated by reference, is used for the purpose of informing a prospective kinship guardian of the funding and program options available when choosing to take legal guardianship of a related foster child. This form, which is used in conjunction with the SOC 369A, constitutes the written agreement that memorializes the terms, conditions, rights, responsibilities and agreements reached between the county child welfare agency, the probation department, or the Title IV-E agreement tribe and the relative prior to the establishment of a kinship guardianship. The SOC 369A amends and supplements the SOC 369.

- (3) SOC 369A (7/15) Kinship Guardianship Assistance Payment (Kin-GAP) Program Agreement Amendment, hereby incorporated by reference, is used for the purpose of amending and supplementing the SOC 369 to memorialize the terms, conditions, rights, responsibilities and agreements reached between the county child welfare agency, the probation department, or the Title IV-E agreement tribe and the kinship guardian. In conjunction with the SOC 369, this form implements the state and federal requirement that there be a written, binding agreement with the kinship guardian stipulating, among other things, the Kin-GAP rate of payment and the manner in which the payment can be renegotiated based upon the needs of the child and the circumstances of the kinship guardian. Thus, the SOC 369A form is used both to establish the Kin-GAP rate of payment at the initiation of the case and, as necessary, to amend the initial agreement after the Kin-GAP case has been established.

- (4) SOC 826 (Rev. 8/09) Child Fatality/Near Fatality County Statement of Findings and Information.

- (5) SOC 832 (Rev. 3/12) Notice of Child Abuse Central Index Listing, hereby incorporated by reference, is used for the purpose of notifying individuals that their name has been submitted to the Department of Justice (DOJ) for listing on the Child Abuse Central Index (CACI).

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| 31-003 | DEFINITIONS – FORMS (Continued) | 31-003 |
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- (6) SOC 833 (Rev. 3/12) Grievance Procedures for Challenging Reference to the Child Abuse Central Index, hereby incorporated by reference, is used for the purpose of informing individuals of the requirements for requesting a grievance hearing, as well as providing information regarding timeframes and all required components of a grievance hearing.

- (7) SOC 834 (Rev. 3/10) Request for Grievance Hearing, hereby incorporated by reference, is used for the purpose of providing individuals with a mechanism for requesting a grievance hearing to challenge their listing on the CACI.

- (t) (Reserved)

- (u) (Reserved)

- (v) (Reserved)

- (w) (Reserved)

- (x) (Reserved)

- (y) (Reserved)

- (z) (Reserved)

NOTE: Authority cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code. Reference: *Gomez v. Saenz* Settlement Agreement and Court Order, Case No: BC284896; Section 11169, Penal Code; Sections 361.7, 827, 10850.4, 11363, 11364, 11386, 11387, 11400, 11403, and 11403.01, Welfare and Institutions Code; 42 USC 5106; 25 USC 1912(d); California Rules of Court, rules 5.481 and 5.482; and 45 CFR 1356.21(d).

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31-005 CHILD WELFARE SERVICES PROGRAM SUPPORT ACTIVITIES 31-005

- .1 The county shall perform the following program support activities:
 - .11 Establish an effective system of preplacement preventive services for children through liaison with the courts, probation, law enforcement and other public and private agencies.
 - .111 Such a system shall provide for cooperative working arrangements with other county and community agencies for receiving appropriate referrals, and for developing remedial resources for the protection of children. In the case of an Indian child(ren), cooperative arrangements should include tribes, tribal social service agencies and Indian organizations.
 - .12 Actively recruit competent placement providers and facilities that will aid in the attainment of the goals in the children's case plans and meet the varied needs of children for such care.
 - .13 Ensure that county staff are aware of the policies and programs that are available through placement facilities to ensure their effective use.
 - .14 Encourage community planning to meet children's needs by performance of the following activities:
 - .141 Delineation of such needs.
 - .142 Encouragement and assistance in developing and expanding the following in the community:
 - (a) Services which improve parent/guardian effectiveness, and which reduce the need for out-of-home care.
 - (b) Facilities which can provide care, supervision, and services to children.
 - (c) Services and activities which are beneficial to children.
 - (d) Services and activities which promote permanency alternatives for children in out-of-home care if efforts to reunify fail.
 - .15 Establish working relationships with the court which provide for methods of delineating the county's responsibility for the following:
 - .151 Maintenance of the confidentiality of public assistance and social service records of the parent(s)/guardian(s) and children during the necessary provision of information, evaluations, and recommendations for the court's use in determining its actions.

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| 31-005 | CHILD WELFARE SERVICES PROGRAM SUPPORT ACTIVITIES (Continued) | 31-005 |
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- .152 Enforcement of court orders.
- .153 Reporting of developments to the court.
- .16 Utilize volunteers as specified in Section 31-305.
- .17 Contact each health care facility in the county that provides acute care to infants to obtain the name, title and telephone number of the person who is designated by the health care facility to act as a liaison to the county for medically neglected infants as defined in Section 31-002(n)(1).
 - .171 The county shall, no less than once a year, recontact each health care facility in the county that provides acute care to infants to obtain any changes in the name, title and telephone number of the designated person.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 827, 10850, 16500, and 16501.1, Welfare and Institutions Code; 45 CFR 1340.15(c)(2)(ii); and 25 USC 1912(d).

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| 31-010 | ADMINISTRATIVE REQUIREMENTS FOR EMERGENCY RESPONSE SERVICES | 31-010 |
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- .1 The county shall be permitted to establish an emergency response services unit in cooperation with neighboring counties, provided that the requirements specified in Welfare and Institutions Code Section 16502 have been met.

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- .11 Welfare and Institutions Code Section 16502 specifies as follows:

Child welfare services... shall be established in any county or combination of counties when a plan which includes financing of such services has been certified by the department.

HANDBOOK ENDS HERE

31-030 PURPOSE OF REVIEWS 31-030

- .1 The administrative review panels shall make determinations as specified in Welfare and Institutions Code Section 16503 and 42 USC 675(5).

NOTE: Authority Cited: Sections 10533 and 10554, Welfare and Institutions Code. Reference: Section 16503, Welfare and Institutions Code and 42 USC 675(5).

31-035 COUNTY RESPONSIBILITIES 31-035

- .1 Each administrative review panel shall include three or more members as follows:
- .11 At least one member shall be outside the direct line of supervision of the case under review.
- .111 Such member shall not be the worker, his/her supervisor, or persons at other levels of supervision or administration who could directly influence the placement of the child.
- .2 Hearing procedures shall be established to address the objectives specified in Welfare and Institutions Code Section 16503.
- .3 The county shall develop, maintain, and implement a written administrative review plan.
- .31 The plan shall include the following:
- .311 The number and size of review panels established as specified in Sections 31-035.1 through .111.
- .312 A summary of the training to be provided to review panels.
- .313 Procedures for notification of participating parties, as specified in Sections 31-045.1 and .2.
- .314 Procedures for conduct of hearings, as specified in Sections 31-050.1 and .2.

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| 31-035 | COUNTY RESPONSIBILITIES (Continued) | 31-035 |
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- .315 Standards and procedures under which hearings will be scheduled, postponed, or continued, as specified in Sections 31-050.3 through .33.

- .4 Prior to implementing the administrative review plan the county shall submit to the Department written certification that their plan meets all requirements specified in Sections 31-035.3 through .315.

- .5 If the plan is modified, the county shall recertify to the CDSS that the county's plan continues to meet all the requirements.
 - .51 The county shall document and maintain records of all modifications to the administrative review plan.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 16503, Welfare and Institutions Code.

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| 31-040 | PARTICIPANTS IN THE REVIEW | 31-040 |
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- .1 The following parties to the case under review shall be allowed to participate in the administrative review hearing:
 - .11 The parent(s)/guardian(s)/Indian custodian(s) from whom the child has been removed, provided that such person'(s) parental rights have not been voluntarily relinquished, or terminated by court action.
 - .12 In the case of an Indian child, the child's tribe.
 - .13 Any other relative of the child who has been significantly involved in his/her care.
 - .14 The child, if 10 years of age or older.
 - .15 The current foster care provider(s).
 - .16 The social worker(s) responsible for the case management or service delivery of the child or parent(s)/guardian(s)/Indian custodian(s).

31-040 PARTICIPANTS IN THE REVIEW **31-040**
(Continued)

.17 The representative(s), as defined in Section 31-002(r)(4).

.171 Such representative(s) shall be allowed to attend the review in the party's place or company.

NOTE: Authority Cited: Sections 10553, 10554 and 16503, Welfare and Institutions Code. Reference: Section 16503, Welfare and Institutions Code; and 25 USC 1911(c).

31-045 NOTIFICATION REGARDING THE REVIEW **31-045**

.1 At the time of initial placement in foster care, the requirements specified in Section 31-401.2 shall be met.

.2 At least 15 calendar days prior to a scheduled administrative review hearing, the agency shall provide written notice of the hearing to the parties specified in Sections 31-040.11, .13, .14, and .16.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 16503, Welfare and Institutions Code.

31-050 CONDUCT OF THE REVIEW HEARING **31-050**

.1 The services social worker or other qualified person familiar with the case shall present the case plan and any additional information to the administrative review panel in the detail necessary to enable panel members to meet the objectives specified in Welfare and Institutions Code Section 16503.

.2 The review panel shall allow comments by all hearing participants.

.3 Hearings shall be postponed or continued only at the request of the child, or of the parent(s)/guardian(s); or if the review panel determines that additional time is necessary to obtain or evaluate information necessary to make an appropriate case-related decision.

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| 31-050 | CONDUCT OF THE REVIEW HEARING (Continued) | 31-050 |
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- .31 No delay shall be allowed unless it is in the best interest of the child.
- .32 The delay shall not exceed ten working days.
- .33 No more than one postponement or continuance shall be granted for each six-month review period.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 16501.1 and 16503, Welfare and Institutions Code.

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| 31-055 | AUTHORITY OF THE REVIEW PANEL | 31-055 |
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- .1 The panel shall have the authority to modify the placement, the permanent placement plan, and the county's current individual case plan goals and services, consistent with the determinations specified in Welfare and Institutions Code Section 16503.
 - .11 If the panel determined that a necessary change in the permanent placement plan, or in individual case plan goals and services, requires modification or termination of an existing court order, the panel shall direct the county to petition the court for the recommended change.
 - .111 The county shall continue to provide services pursuant to the requirements of the court order pending court consideration of recommended changes.
 - .112 If the court does not modify the court order as recommended by the review panel, the county shall notify the panel and shall continue to provide services consistent with the court order.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 16503, Welfare and Institutions Code.

31-060 REPORTS FROM THE REVIEW PANEL 31-060

- .1 The administrative review panel shall complete or direct the completion of a written report including, but not limited to the following information:
 - .11 The panel shall be permitted to use a copy of the case plan to fully or partially comply with the requirement specified in Section 31-060.1, provided that the requirements specified in Sections 31-060.2 and .3 are met.
- .2 The report shall include determinations as specified in Welfare and Institutions Code Section 16503 and 42 USC 675(5).
- .3 Each report shall be completed within 15 calendar days of the hearing.
- .4 The report shall be signed by the chairperson of the review panel.
- .5 The county shall, within 15 calendar days following the hearing, distribute copies of the administrative review panel recommendations to:
 - .51 The child, if 10 years of age or older.
 - .52 The parent(s)/guardian(s) of the child; and his/her representative(s), as defined in Section 31-002(r)(3).
 - .53 The child's case record.
 - .54 The juvenile court, except for voluntary cases.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 16503, Welfare and Institutions Code and 42 USC 675(5).

31-065 SPECIAL PROVISIONS 31-065

- .1 The regulations in this chapter shall not be interpreted as interfering with the right of hearing participants to petition the court as otherwise specified in law.
- .2 In all activities connected with the administrative review, confidentiality of information shall be assured as specified in Manual of Policies and Procedures Division 19-000.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 16503, Welfare and Institutions Code.

**31-066 MULTIDISCIPLINARY TEAM ASSESSMENT AND RECOMMENDATION 31-066
FOR PLACEMENT IN AN OUT-OF-STATE GROUP HOME**

- .1 A multidisciplinary team assessment and placement recommendation shall be required prior to placing a child in an out-of-state group home facility as specified in Family Code Sections 7911 and 7911.1.
- .2 For out-of-state group home placement purposes a "Multidisciplinary Team" means a team composed of county social services, county mental health, county probation, county superintendents of schools, and other members as determined by the county. With the addition of a county superintendent of schools member, a county's Interagency Placement Committee, as defined in Welfare and Institutions Code Section 4096, may also act as a county Multidisciplinary Team.
 - .21 In the case of an Indian child, pursuant to WIC section 361.31(g), the Multidisciplinary Team shall include a tribal social worker, or a representative of the child's tribe at team meetings in order to provide relevant information about the child.
 - .211 In making a decision whether to place the Indian child in an out of state group home, any placement decision shall be made consistent with ICWA placement preference requirements as specified in Section 31-420.3, and the agency's duties to engage in Active Efforts to comply with those placement preferences.
- .3 Family Code Sections 7911 and 7911.1 provide, in part, that for each county social service agency or probation department child residing in an out-of-state group home on August 17, 1998, an assessment and placement recommendation shall be required from a multidisciplinary team by February 18, 1999.
 - .31 These statutes provide, in part, that for each child placed in a group home out-of-state on or after August 18, 1998 and prior to March 1, 1999, the county social service agency or probation department has six months from the date of placement, to obtain an assessment and placement recommendation from a county multidisciplinary team in order to continue that out-of-state group home placement.
 - .32 On or after March 1, 1999, a county shall be required to obtain an assessment and placement recommendation by a county multidisciplinary team prior to placement of a child in an out-of-state group home facility. The multidisciplinary team recommendation shall be presented to the court.
- .4 In assessing a child's need for an out-of-state placement, the multidisciplinary team shall consider, but is not limited to, a review of the current circumstances precipitating the request for an out-of-state placement, including a review of the reasonable efforts/services provided prior to the placement of the child in foster care or to make it possible for the child to return home, the services provided to prevent an out-of-home placement, the current location of the child and length of time there, situation and location of parents/siblings, descriptions of out-of-state placement resource(s) or type of placement resource being sought, the child's attitude toward placement, and the parents' attitude towards placement.
 - .41 An assessment of the child shall include a physical description; a current evaluation of behavioral, emotional, and social skills; relationships/interactions with parents, caregivers, and peers; health (diagnosis, treatment, and prognosis); education (grades, achievements, and classroom behavior); placement history (why in-state services or facilities were not adequate); and special needs, if any.

31-066 MULTIDISCIPLINARY TEAM ASSESSMENT AND RECOMMENDATION FOR PLACEMENT IN AN OUT-OF-STATE GROUP HOME (Continued) 31-066

- .42 An assessment of the child shall include the history of the family including current functioning (education, employment, social and health) and the family's anticipated involvement with child.
- .421 In the case of an Indian child, the assessment shall include consultation with the Indian child's tribe regarding the impact of the child's out of state placement on the child's retention of connections with his or her family, extended family and tribe or tribal community and the tribe's position on the placement. Where the tribe's position is that the out of state placement is contrary to the ICWA placement preferences, only the court can determine that there is good cause to deviate from the preferences.
- .43 Permanent plan for the child: Documentation of other options available for the child's permanent placement (reunification, adoption, Tribal Customary Adoption, guardianship or preparation for independent living), anticipated duration of the proposed placement, and the relationship of proposed placement to the permanent plan.

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MPP Section 31-002(a)(5) defines "assessment" as a written document which contains information relevant to the case situation and an appraisal of case services needs.

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- .5 The multidisciplinary team shall make a decision as to whether out-of-state placement is in the child's best interest or not. The team shall rule out in-state placement options before recommending an out-of-state placement. This shall be documented in the case plan.
- .51 Documentation shall include, but shall not be limited to:
 - .511 Which in-state programs were identified that offer services necessary to meet the child's needs including, but not limited to:
 - (a) The activities that were undertaken by the multidisciplinary team to determine whether in-state programs offer services necessary to meet the child's needs, including, but not limited to, communication with in-state group home programs, other county probation offices, county welfare departments, regional placement review committees, and the CDSS Out-of-State Placement Policy Unit.
 - .512 If in-state programs offer services necessary to meet the child's needs, identify those programs, and the activities undertaken by the multidisciplinary team to determine whether those programs can accept the child into placement.

31-066 MULTIDISCIPLINARY TEAM ASSESSMENT AND RECOMMENDATION FOR PLACEMENT IN AN OUT-OF-STATE GROUP HOME (Continued) 31-066

- .513 The multidisciplinary team shall determine whether a delay in placement to accommodate an in-state program exists, because the in-state placement does not have available space, at the time of the contact, to accept the child into placement, when such space in that program may become available, and whether postponing placement in an out-of-state placement until such space becomes available is feasible and is in the best interest of the child.

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- .514 For the purpose of this section, a county's Interagency Placement Committee, as established pursuant to MPP Section 11-402.182, may perform this assessment and placement recommendation as long as the members of this team have met the definition of a "Multidisciplinary Team" found in MPP Section 31-066.2.

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- .6 Recommendations shall be submitted, in writing, to the court and shall document why the out-of-state placement is the most appropriate placement selection and in the best interest of the child. Documentation shall include, but is not limited to, the case plan, mental health assessment, descriptions of services the group home shall provide and other relevant information used to make the placement recommendations.

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- .61 Family Code Sections 7900 et seq., the Interstate Compact on Placement of Children (ICPC), applies, but is not limited to, whenever a California court or county social service/probation department wishes to place a child out-of-state. The CDSS Compact Administrator is responsible for the activities under the ICPC and shall carry out the terms and provisions of the ICPC.

HANDBOOK ENDS HERE

NOTE: Authority Cited: Sections 10553, 10554, and 16501.1, Welfare and Institutions Code. Reference: Sections 7901, 7911, 7911.1, and 7912, Family Code; Sections 361.21, 361.31, 366.24, 727.1, 16516.5, 18951, and 18964, Welfare and Institutions Code; and 25 USC 1915.

31-070 STAFF REQUIREMENTS 31-070

- .1 County staff who provide emergency response and family maintenance services shall meet the following qualifications:

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| 31-070 | STAFF REQUIREMENTS | 31-070 |
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(Continued)

- .11 At least 50 percent of the professional staff providing emergency response services, and at least 50 percent of the professional staff providing family maintenance services, shall possess a master's degree in social work, or its equivalent in education and/or experience as certified by the State Personnel Board or a county civil service board.
- .12 One hundred (100) percent of the supervisors of staff providing emergency response and family maintenance services shall possess a master's degree in social work, or its equivalent in education and/or experience as certified by the State Personnel Board or a county civil service board.
- .13 Remaining emergency response and family maintenance services professional staff shall possess a bachelor's degree in social work or its equivalent in education and/or experience as certified by the State Personnel Board or a county civil service board.
- .14 Bilingual staff shall be available as specified in Manual of Policies and Procedures Chapter 21-100.
- .2 At the beginning of the calendar year, the county shall determine if it meets the requirements specified in Sections 31-070.11, .12, and .13, unless the county has an approved plan pursuant to Section 31-070.21.
 - .21 If the county is unable to meet the requirements specified in Sections 31-070.11, .12, and .13, the county shall:
 - .211 Document the reason(s) for such inability in a written statement to the Department.
 - .212 Submit to the Department for approval a plan specifying the means by which the county plans to meet the requirements of Sections 31-070.11, .12, and .13, and the time frame by which the county expects to obtain compliance.
 - (a) Upon plan approval, the Department shall have the authority to defer the requirements specified in Sections 31-070.11, .12, .13, and .2 for a period up to three years.
 - .22 At the end of the time frame specified in the county's plan, but no more than three years from the date the county submits its plan to the Department, the county shall notify the Department, in writing, of its progress in obtaining compliance.
 - .221 If the county has failed to obtain compliance, the county shall follow the procedures in Section 31-070.21.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 16501(c) and (e), Welfare and Institutions Code and 45 CFR 1356.21(d).

31-075 CASE RECORDS 31-075

- .1 The county shall develop and maintain a current case record for each request or referral that requires child welfare services beyond the emergency response protocol specified in Section 31-105.
- .2 With the exception of an Indian child as stated below, case records shall be maintained a minimum of three years in accordance with Operations Manual section 23-353. The Department requires case records to be retained more than three years in certain circumstances such as, court orders, audits and/or federal mandates.

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Manual of Policies and Procedures section 23-353 provides in pertinent part:

"The general statute in California (Welfare and Institutions Code section 10851) requires that public social services records (aid and services) be maintained for three years from the last date of aid or services...Federal law (45 CFR 74.20) requires that case records which provide the basis for fiscal claims are to be retained for three years, starting on the day the state submits the last expenditure report to HHS for the period

Under these requirements, counties shall insure that records needed to prove eligibility may not be destroyed unless three years have passed from the date the last state expenditure report was made to HHS for the period in which such records were last used to document eligibility."

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- .21 An Indian child's case records, including eligibility records, shall be maintained in perpetuity and made available at any time upon request of the Secretary of the Interior or the Indian child's tribe as required by 25 U.S.C. 1915 (e) and Welfare and Institutions Code section 361.31(k). Records and information regarding an Indian child must be entered into the Statewide Automated Child Welfare Information System (SACWIS) and shall never be removed via Data Deletion Requests.
 - .22 The case record of a child eligible to receive Kin-GAP payments, including the child's Kin-GAP eligibility case file records as specified in Manual of Policies and Procedures sections 45-604 and 45-605, shall be retained for a minimum of three years from the last date of Kin-GAP aid in accordance with the Manual of Policies and Procedures section 23-353.
- .3 Each case record shall contain at least the following information:
- (a) A face sheet with identification information regarding the child; family; Indian ancestry, tribal membership or eligibility for tribal membership; and the placement services provider, if any.
 - (b) Documentation of each contact with the child, the child's family and extended family; the child's Indian custodian; an Indian tribe, where there is reason to know that a child is or may be an Indian child, or any other individuals regarding the child or family. All contacts shall be documented including those made by a social worker employed by a Foster Family Agency, by a probation officer, or by a social worker in another state performing the visits pursuant to the ICPC.

31-075 CASE RECORDS (Continued)**31-075**

- (c) Documentation of each contact identified and the results of an inquiry conducted as to whether the child is or may be an Indian child as set forth in Section 31-125.223. The documentation shall include, but is not limited to, copies of the completed Judicial Council's Indian Child Inquiry Attachments ICWA-010(A) required by California Rules of Court, rule 5.481(a), and the ICWA-020 Parental Notification Of Indian Status required by California Rules of Court, rule 5.481(a)(2).

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California Rules of Court rule 5.481(a) requires completion of the ICWA-010(A) and the ICWA-020 in each case where a party is seeking a foster care placement of a child. The ICWA forms are available on the Judicial Council's website at <http://www.courts.ca.gov>. The Judicial Council website contains resources pertaining to ICWA requirements and best practices for meeting the ICWA and court requirements. Additionally, Judicial Council staff is available to answer questions and provide technical assistance. They can be reached at:

Judicial Council
Center for Families, Children & the Courts
Tribal/State Programs Unit
455 Golden Gate Avenue, 6th Floor
San Francisco, California
94102-3688

E-mail
cfcc@jud.ca.gov

HANDBOOK ENDS HERE

- (d) Copies of each Notice of Child Custody Proceeding for Indian Child (ICWA-030) must be sent to an Indian child's parent(s) or Indian custodian, if any, the Indian child's tribe and to the Secretary of the Interior. The case record shall include the registered or certified mail return receipt and each response, including documentation of all verbal communications, such as notes of conversations or meetings with tribal representatives, parent(s), guardian(s), or Indian custodian(s).

31-075 **CASE RECORDS (Continued)** **31-075**

- (e) In the case of an Indian child, documentation of the Active Efforts taken to identify and provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and whether these efforts proved unsuccessful and why as described in Section 31-135.23. "Documentation of Active Efforts must be included in the case plan which is required as an attachment to all court reports."
- (f) In the case of an Indian child, documentation of the Active Efforts taken to comply with the ICWA placement preferences as described in Section 31-420.3 including whether these efforts proved unsuccessful. If unsuccessful, document the reasons why. "Documentation of Active Efforts must be included in the case plan which is required as an attachment to all court reports."

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Welfare and Institutions Code section 361.31(k) states: "A record of each foster care placement or adoptive placement of an Indian child shall be maintained in perpetuity by the State Department of Social Services. The record shall document the Active Efforts to comply with the applicable order of preference specified in this Section."

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- (g) Documentation of reasons why a child in out-of-home placement is not placed with sibling(s) and diligent efforts to overcome barriers of placing the siblings together.
 - (1) Documentation of the appropriateness of sibling contact, including unsupervised contact, diligent efforts to overcome barriers of visitation between siblings not placed together, and, if appropriate, a schedule of planned sibling contacts and visits with the child.
- (h) Documentation of the justification for any exceptions allowed regarding contacts or visits pursuant to Sections 31-320 and 31-325.
- (i) A copy of the executed Judicial Council waiver of services form if the parent of the child has advised the court that he or she is not interested in receiving family maintenance or family reunification services.

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The Judicial Council is required to develop the waiver form pursuant to Welfare and Institutions Code Section 361.5(b)(13).

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- (j) Documentation of the results of the court's inquiry into the identification of all presumed or alleged fathers of the child, if applicable.
- (k) Documentation of the parent's information in response to the court order pursuant to Welfare and Institutions Code Section 361.3(a) to identify any maternal or paternal relatives of the child, and the social worker's attempts to locate and contact the relatives given consideration for placement.
- (l) All assessments, case plans, and case plan updates.
 - (1) Documentation of the date a copy of the case plan/case plan update was provided to the parent(s)/guardian(s).
 - (2) Assessments include written assessments of relatives as required by Welfare and Institutions Code Sections 309 and 361.3.
 - (3) For a child for whom the permanency plan is a kinship guardianship, documentation of the assessment information specified in Sections 31-205(h) through 31-205(h)(4).
- (m) Documentation of the search for and consideration of relatives for placement and the reasons for the agency's decision to place or not to place the child with each identified relative, as specified in Welfare and Institutions Code Section 361.3.
- (n) Any data or documents, relating to the child or family, which have been received or sent by the county.
- (o) Any documents that support how the case is reported pursuant to Sections 31-082 through 31-090.
- (p) For children in out-of-home care, all available health and education reports regarding the child, including, but not limited to, dated documentation of the following:
 - (1) Provision of informational materials regarding the CHDP Program, as specified in Section 40-107.6, and the acceptance or refusal of the CHDP services.
 - (2) Offering of medical/dental transportation and scheduling assistance.

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| 31-075 | CASE RECORDS (Continued) | 31-075 |
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- (q) Any written modifications or prohibitions to the foster parent'(s) privilege to give legal consent for the child, if applicable.
- (r) Any written parent/guardian consents required by the Division 31 regulations.
- (s) For children with histories of juvenile court involvement as actual or potential dependents, any documents submitted to or received from the court, including petitions and court reports.
- (t) For children who have been assessed as being seriously emotionally disturbed, the individualized education program designed for the child, if available.
- (u) Any information release(s) signed by the parent(s)/guardian(s) and/or child.
- (v) Any administrative review report recommendations.
- (w) When appropriate, the following forms or equivalent documentation, which have been approved by the Department:
 - (1) Court order to county to detain and/or to place child.
 - (2) Foster Child's Data Record (FCIS).
 - (3) Placement Agreement, Child/Agency.
 - (4) Placement Agreement, Parent/Agency.
 - (5) Agency/Emergency Shelter Care Provider Agreement.
 - (6) Court order to county relating to the provision of child welfare services to the child and/or family.
 - (7) Agency-Foster Parent Agreement.
 - (8) Agency-Group Home Agreement.
 - (9) Documentation that the foster family home of a relative or nonrelative extended family member meets the approval standards, including documentation of a caregiver assessment, health and safety inspection of the home and all required criminal records clearances.
 - (10) For a Tribally Approved Home, documentation from the tribe, such as a tribal council resolution, or a letter on tribal letterhead confirming tribal approval of the home as meeting tribal standards for the purposes of foster or adoptive placement.

31-075 **CASE RECORDS (Continued)** **31-075**

- (A) Documentation that prior to placement of a child in a Tribally Approved Home, criminal record and child abuse registry background checks have been completed.
- (B) If the tribe has a Tribal Agency that is authorized, pursuant to Welfare and Institutions Code section 10553.12, to receive criminal and child abuse registry information from the California Department of Justice, documentation of the following:
 - 1. The Tribal Agency's certification that it has completed caregiver background checks pursuant to the standards set forth in Sections 1522 and 1522.1 of the Health and Safety Code, with respect to the following:
 - a. any prospective foster parent,
 - b. adoptive parent,
 - c. any adult who resides with the applicant,
 - d. any adult employed in the Tribally Approved Home,
 - e. any person who has a familial or intimate relationship with any person living in the home of an applicant.
 - f. The certification must provide the address of the home, the names of the individuals in the household that have been cleared, the date of the completion of the clearance for each individual, and if any exemptions were granted.
 - 2. Documentation that the Tribal Agency has agreed to report, within 24 hours to the county social worker responsible for the child placed in the Tribally Approved Home, any notification to the Tribal Agency by the Department of Justice of a subsequent state or federal arrest or disposition notification involving an individual associated with the Tribally Approved Home.

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Tribes are not required to have a Title IV-E agreement in order for counties to be authorized to use Tribally Approved Homes for the placement of children under county care.

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| 31-075 | CASE RECORDS (continued) | 31-075 |
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- (x) Documentation of the reason(s) for the following, when applicable:
 - (1) The child's transfer to another placement location.
 - (2) The child's out-of-county or out-of-state placement.
 - (3) The child's placement in a group home, including the following:
 - (A) A statement of the specific needs of the child which cannot be met if the child resides in a less restrictive environment.
 - (B) A description of the types and modalities of treatment program(s) offered and delivered to the child.
- (y) Documentation of any information provided to the placement services provider and/or respite care provider regarding the child's known or suspected dangerous behavior.
- (z) For a child for whom the permanency plan is a kinship guardianship, documentation of the appointment of a kinship guardianship for the child, which shall include the court order establishing the kinship guardianship, or the letters of guardianship; and the court order terminating dependency or wardship.
- (aa) Documentation of the review and the results of the child's potential for adoption, which shall specify why a child who is not reunified with his/her family is not appropriate for adoption as defined in Welfare and Institutions Code Sections 366.26(c)(1)(A) through (D). In the case of an Indian child, documentation shall also include the review and results of discussions with the child's tribe concerning concurrent planning including the potential for Tribal Customary Adoption as a permanency option for the Indian child. Courts reports shall include information and supporting evidence on the outcome of consultation with the tribe regarding Tribal Customary Adoption.

NOTE: Authority Cited: Sections 10553, 10554, 16002, and 16501, Welfare and Institutions Code and Assembly Bill 1695, Section 21, Chapter 653, Statutes of 2001. Reference: Sections 224.2, 224.3, 309, 319, 358(b), 361.2, 361.3, 361.31, 361.4, 361.5, 361.7, 366.21, 366.26, 727, 10553.12, 10851, 11363, 11386, 11402, 16002, 16501, and 16507.5, Welfare and Institutions Code; Sections 1505, 1522, and 1522.1, Health and Safety Code; Sections 11105.08 and 11170, Penal Code; California Rules of Court, rules 5.481 and 5.690; 45 CFR 74.20, 1355.20, and 1356.21(d); and 25 USC 1912, 1915, and 1931.

**CHILD WELFARE SERVICES PROGRAM
INTAKE**

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CHAPTER 31-100 INTAKE**31-101 GENERAL****31-101**

- .1 The county shall respond to all referrals for service which allege that a child is endangered by abuse, neglect, or exploitation.
 - .11 On all referrals, the county shall inquire with the child, if the child is old enough, the child's parent(s), legal guardian(s), or the child's Indian custodian, whether the child is an Indian child and shall identify and document each response.
 - .12 The county shall respond to referrals from county AFDC eligibility staff pursuant to Section 89-201.24 in accordance with the provisions of Section 31-530.
- .2 The social worker responding to a referral shall be skilled in emergency response.
- .3 The social worker shall respond to a referral by one of the following methods:
 - .31 Completing an Emergency Response Protocol, as described in Section 31-105.
 - .32 Conducting an in-person immediate investigation, as described in Section 31-115.
 - .33 Conducting an in-person investigation initiated within 10 calendar days from the date the referral was received, as described in Section 31-120.
- .4 The social worker shall conduct an in-person investigation of all referrals received from a law enforcement agency which allege abuse, neglect, or exploitation.
 - .41 No response is required to a cross-report from a law enforcement agency if the law enforcement agency has investigated and determined that there is no indication of abuse or neglect by a member of the child's household.

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| 31-101 | GENERAL (Continued) | 31-101 |
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.5 Within 30 calendar days of the initial removal of the child or the in-person investigation, or by the date of the dispositional hearing, whichever comes first, the social worker shall:

.51 Determine whether child welfare services are necessary and:

.511 If child welfare services are necessary, complete a case plan and begin implementation of the case plan in accordance with the time frames and schedules specified in Chapter 31-200.

.512 In the case of an Indian child, if child welfare services are necessary, prepare, complete and implement the case plan in collaboration with the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers in accordance with the time frames and schedules specified in Chapter 31-210.

.513 If child welfare services are unnecessary, close the referral/case, as appropriate.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 224.3, 361.7, 11254, 16208, 16501, 16501.1, and 16504, Welfare and Institutions Code; California Rules of Court, rules 5.690(c) and 5.481(a); and 25 USC 1912(d).

31-105 EMERGENCY RESPONSE PROTOCOL**31-105**

- .1 The social worker shall immediately initiate and complete the Emergency Response Protocol process when it is necessary to determine whether an in-person investigation is required. The social worker shall record all available and appropriate information on the Emergency Response Protocol form, SOC 423 (10/92), or an approved substitute. The social worker is not required to initiate the Emergency Response Protocol when the social worker has already determined an in-person investigation is required (i.e., law enforcement referrals, obvious immediate danger referrals).

- .11 In order to be approved as a substitute for the Emergency Response Protocol form, the substitute shall at a minimum contain all of the following elements:
 - .111 The following identifying information:
 - (a) Information regarding the child alleged to be abused, neglected, or exploited, which shall include:
 - (1) Information specified in Section 31-105.111(f),
 - (2) Case name, and
 - (3) Case number.
 - (b) Information regarding the referral, which shall include:
 - (1) Time and date referral received, and
 - (2) Location of alleged incident.
 - (c) Information regarding the reporter, which shall include:
 - (1) Name,
 - (2) Relationship to child,
 - (3) Agency affiliation, if a mandated reporter,
 - (4) Address, and
 - (5) Phone number (home/work).

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31-105 **EMERGENCY RESPONSE PROTOCOL** **31-105**
(Continued)

(d) Information regarding each adult in the household, which shall include:

- (1) Name,
- (2) Relationship to child,
- (3) Birthdate,
- (4) Ethnicity,
- (5) Tribal affiliation,
- (6) Primary language, if non-English speaking,
- (7) Current location, and
- (8) Phone number(s).

(e) Information regarding the alleged perpetrator, which shall include:

- (1) Elements specified in Sections 31-105.111(d)(1) through (7), and
- (2) Access to the child.

(f) Information regarding each minor child in the family, which shall include:

- (1) Name,
- (2) Birthdate,
- (3) Sex,
- (4) Ethnicity,
- (5) Tribal affiliation,
- (6) Primary language, if non-English speaking,
- (7) Current location,
- (8) Name and address of school/daycare, if applicable, and
- (9) Name, current location and phone number of each absent parent.

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| 31-105 | EMERGENCY RESPONSE PROTOCOL (Continued) | 31-105 |
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- .112 A description of the alleged incident, including consideration of the following risk factors:
- (a) Precipitating incident including the following:
 - (1) Severity and frequency;
 - (2) Location and description of injury on child's body; and
 - (3) History of child abuse, neglect, or exploitation.
 - (b) Child characteristics including the following:
 - (1) Age, vulnerability, special circumstances; and
 - (2) Behavior, interaction with caretakers, siblings, and peers.
 - (c) Caretaker characteristics including the following:
 - (1) Ability to care for child;
 - (2) Interaction with children, other caretakers;
 - (3) Parenting skill/knowledge; and
 - (4) Substance abuse, criminal behavior, and mental health.
 - (d) Family factors including the following:
 - (1) Relationships, support systems;
 - (2) History of abuse, neglect, or exploitation;
 - (3) Presence of parent substitute;
 - (4) Environmental conditions; and
 - (5) Family strengths.
- .113 Information regarding a records review.

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| 31-105 | EMERGENCY RESPONSE PROTOCOL (Continued) | 31-105 |
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- .114 Information regarding the collateral contacts, including the following:
 - (a) Date of contact,
 - (b) Name and phone number of each person contacted,
 - (c) Agency affiliation or person's relationship to the child,
 - (d) Contacts with tribe(s), extended family, Indian organizations, other Indian service providers, and
 - (e) Summary of information obtained.

- .115 Decision criteria. The decision whether or not an in-person investigation is necessary shall include, but not be limited to, consideration of the following factors:
 - (a) The ability to locate the child alleged to be abused and/or the family.
 - (b) The existence of an open case and the problem described in the allegation is being adequately addressed.
 - (c) The allegation meets one or more of the definitions of child abuse, exploitation or neglect contained in Sections 31-002(c)(7), 31-002(e)(9), or 31-002(n)(1).
 - (d) The alleged perpetrator is a caretaker of the child or the caretaker was negligent in allowing, or unable or unwilling to prevent, the alleged perpetrator access to the child.
 - (e) The allegation includes specific acts and/or behavioral indicators which are suggestive of abuse, neglect, or exploitation.
 - (f) There is additional information from collateral contacts or records review which invalidates the reported allegation.
 - (g) There are previously investigated unsubstantiated or unfounded reports from the same reporter with no new allegations or risk factors.

- .116 The decision whether an in-person investigation is required, including the following outcome options.
 - (a) Evaluate out, with no referral to another community agency;
 - (b) Evaluate out, with a referral to an appropriate community agency;

CHILD WELFARE SERVICES PROGRAM

31-105 (Cont.)

INTAKE

Regulations

31-105 EMERGENCY RESPONSE PROTOCOL
(Continued)

31-105

- (1) Where there is reason to know that a child is or may be an Indian child, evaluate out with a referral to the Indian child's tribe, an Indian organization or other Indian service provider, if available; or

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ICWA requires Active Efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. It is therefore essential for the social worker when determining to evaluate out a call involving an Indian child, to identify culturally relevant community services that can help support the Indian family. Referrals can include known Indian service providers such as local tribes, tribal ICWA programs, or Tribal TANF programs.

HANDBOOK ENDS HERE

- (c) Accept for in-person investigation.
- .117 When the decision is to evaluate out, either with or without a referral to another community agency, the following information shall be documented and included:
- (a) Rationale for the decision; and
- (1) In the case of an Indian child, documentation of referrals made to the child's tribe, or Indian service providers as specified in Section 31-105.116(b)(1) and if not utilized, why not, and why these efforts proved unsuccessful.
- (b) Supervisor approval.
- .2 The social worker shall complete the Emergency Response Protocol process by determining if an in-person investigation is required.
- .21 The Emergency Response Protocol form, or approved substitute, is complete when the social worker has recorded enough information as specified in Section 31-105.1 to document the decision as to whether or not to make an in-person investigation and shall include:
- .211 The specific decision outcome,
- .212 The rationale for evaluating out the referral, and
- .213 The supervisor approval.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 224.3, 361.7, 16208 and 16504, Welfare and Institutions Code; California Rules of Court rule 5.690(c); and 25 USC 1912(d).

CHILD WELFARE SERVICES PROGRAM**Regulations****INTAKE****31-115**

31-110 IN-PERSON INVESTIGATIONS**31-110**

- .1 If the social worker determines from the emergency response protocol that an in-person investigation is not necessary, the social worker shall document the determination.
- .2 If the social worker determines that an in-person investigation is not necessary, but that the services of another community agency are appropriate, the social worker shall refer the reporter or child and family to that agency. In the case of an Indian child the social worker shall also identify and refer the family to culturally appropriate services such as those available through the child's tribe, an Indian organization or other Indian service providers if available.
 - .21 When a referral alleges non-familial child abuse, the social worker shall report the referral to the appropriate law enforcement agency as specified in Section 31-501.1.
- .3 If the social worker determines that an in-person investigation is necessary, the social worker shall make the in-person investigation immediately or within 10 calendar days, as appropriate.
 - .31 During the course of the in-person investigation the social worker shall inquire with the child, if the child is old enough, the child's parent(s), legal guardian(s), or the child's Indian custodian whether the child is or may be an Indian child.
 - .32 If it is known, or there is reason to know, that the referral involves an Indian child the social worker shall contact the designated representative of the child's tribe so that Active Efforts to prevent the breakup of the Indian family can be commenced and coordinated by the social worker, unless there is imminent danger of physical damage or harm to the child and immediate removal is required.
 - .33 If the child is in imminent danger of physical damage or harm and an immediate removal is required, the social worker must contact the child's tribe as soon as possible thereafter.

HANDBOOK BEGINS HERE

Initial inquiry regarding Indian heritage is vital to beginning contact with the child's family and tribe, and complies with ICWA requirements to engage in Active Efforts to prevent the breakup of the Indian family. Further, asking such questions enables documentation of the worker's and county agency's attempts to collaborate with the tribe in early intervention and prevention of removal of the child from its community.

HANDBOOK ENDS HERE

- .4 The social worker shall conduct an in-person investigation for all law enforcement referrals either immediately or within 10 calendar days after receipt of a referral, as appropriate.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 224.3, 361.7, 16208, 16501, and 16504, Welfare and Institutions Code; and 25 USC 1912(d).

31-115 IN-PERSON IMMEDIATE INVESTIGATION**31-115**

- .1 The social worker shall conduct an in-person immediate investigation when:
 - .11 The emergency response protocol indicates the existence of a situation in which imminent danger to a child, such as physical pain, injury, disability, severe emotional harm or death, is likely.
 - .12 The law enforcement agency making the referral states that the child is at immediate risk of abuse, neglect or exploitation.
 - .13 The social worker determines that the child referred by a law enforcement agency is in immediate risk of abuse, neglect, or exploitation.
- .2 Prior to removal from the home, the social worker shall inquire with the child, if the child is old enough, the child's parent(s), legal guardian(s), or the child's Indian custodian whether the child is or may be an Indian child.
 - .21 If it is known, or there is reason to know, that the referral involves an Indian child, the social worker shall contact the designated representative of the child's tribe, so that Active Efforts to prevent the breakup of the Indian family can be commenced and coordinated by the social worker.
 - .211 If there is imminent danger of physical damage or harm to the child and immediate removal is required, contact must be made with the designated representative of the child's tribe as soon as possible thereafter.
 - .212 If an emergency removal and emergency placement is necessary to prevent imminent physical damage or harm to the Indian child, it should be as short as possible.

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When a social worker is considering removal and making a foster care placement of an Indian child, the ICWA requires that they engage in Active Efforts to provide remedial, rehabilitative services to prevent the breakup of the Indian family. Such Active Efforts can include, but are not limited to contacting any known collaterals, family members, or known local tribes, Indian organizations, or other Indian service providers that can assist in providing support to the family.

HANDBOOK ENDS HERE

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 224.3, 361.7, 16208, 16501, and 16504, Welfare and Institutions Code.

31-120 IN-PERSON INVESTIGATION WITHIN 10 CALENDAR DAYS 31-120

- .1 The social worker shall conduct an in-person investigation of the allegation of abuse, neglect, or exploitation within 10 calendar days after receipt of a referral when:
 - .11 The emergency response protocol indicates that an in-person investigation is appropriate and the social worker has determined that an in-person immediate investigation is not appropriate.
 - .12 The law enforcement agency making the referral does not state that the child is at immediate risk of abuse, neglect, or exploitation and the social worker determines that an in-person immediate investigation is not appropriate.
- .2 If it is known or there is reason to know that the referral involves an Indian child, the social worker shall contact the designated representative of the child's tribe so that Active Efforts to prevent the breakup of the Indian family can be commenced and coordinated with the tribe.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 224.3, 361.7, 16208, 16501, and 16504, Welfare and Institutions Code.

31-125 INVESTIGATION REQUIREMENTS 31-125

- .1 The social worker initially investigating a referral shall determine the potential for or the existence of any conditions(s) which places the child, or any other child in the family or household, at risk and in need of services and which would cause the child to be a person described by Welfare and Institutions Code Sections 300(a) through (j).
 - .11 The social worker shall not determine the child to be at risk and in need of services, or to be a person described by Welfare and Institutions Code Section 300(a) through (j) based solely on the existence of any of the following conditions described in Welfare and Institutions Code Sections 300(a) through (c):
 - .111 "...reasonable and age-appropriate spanking to the buttocks where there is no evidence of serious physical injury,"
 - .112 "...lack of an emergency shelter for the family," or
 - .113 "...the willful failure of the parent or guardian to provide adequate mental health treatment...based on a sincerely held religious belief."

31-125 INVESTIGATION REQUIREMENTS **31-125**
(Continued)

- .12 The social worker shall not determine the child to be in need of child welfare services based solely on the existence of the conditions specified in Welfare and Institutions Code Sections 16509, 16509.1 and 16509.2.

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- .121 Welfare and Institutions Code Section 16509 states:

Cultural and religious child-rearing practices and beliefs which differ from general community standards shall not in themselves create a need for child welfare services unless the practices present a specific danger to the physical or emotional safety of the child.

- .122 Welfare and Institutions Code Section 16509.1 states:

No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to have been neglected within the purview of this chapter.

- .123 Welfare and Institutions Code Section 16509.2 states:

The physical or mental incapacity, or both, in itself, of a parent or a child, shall not result in a presumption of need for child welfare services.

HANDBOOK ENDS HERE

- .2 The social worker investigating the referral shall have in-person contact with all of the children alleged to be abused, neglected or exploited, and at least one adult who has information regarding the allegations.
- .21 If as a result of the investigation the social worker determines that the referral is unfounded pursuant to Penal Code Section 11165.12, the social worker shall document the determination in the case record.
- .22 If as a result of the investigation the social worker does not find the referral to be unfounded, the social worker shall:
- .221 Conduct an in-person investigation with:
- (a) All children present at the time of the initial in-person investigation.

31-125 INVESTIGATION REQUIREMENTS
(Continued)**31-125**

- (b) All parents who have access to the child(ren) alleged to be at risk of abuse, neglect or exploitation.
 - (1) A noncustodial parent shall be considered to have access if he/she has regular or frequent in-person contact with the child(ren).

- .222 Make necessary collateral contacts with each person having knowledge of the condition of each child that is the subject of an allegation, including tribes, Indian organizations, or other Indian service providers when the child is or may be Indian.

- .223 In all cases the social workers shall inquire with the child, if the child is old enough, the child's parent(s), legal guardian(s), or the child's Indian custodian, whether the child is or may be an Indian child, and complete and file with the court the Judicial Council Indian Child Inquiry Attachment form ICWA-010(A). Additionally, the social worker must provide the ICWA-020 Parental Notification of Indian Status to the parent, Indian custodian or guardian for completion and file it with the court. Social workers have an affirmative and continuing duty to inquire about a child's Indian status.
 - (a) Circumstances that may give rise to a further duty to inquire include, but are not limited to, the following:
 - (1) Information is provided by the child, parent or Indian custodian, an officer of the court, a tribe, an Indian organization, a public or private agency, or an extended family member suggesting the child may be Indian;
 - (2) Any agency involved in child protective or family support services has discovered information suggesting that the child is an Indian child.
 - (3) Information is provided that one or more of the child's biological parent(s), grandparent(s), or great grandparent(s) are or were a member of a tribe;
 - (4) The residence or domicile of the child, or the child's parent(s), guardian(s), or Indian custodian(s) is in a predominantly Indian community; or
 - (5) The child or the child's family has received services or benefits available to Indians from a tribe or from the federal government, such as Indian Health Services.
 - (6) An employee of the agency or officer of the court involved in the proceeding has knowledge that the child may be an Indian child.

31-125 INVESTIGATION REQUIREMENTS
(Continued)**31-125**

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California Rules of Court, rule 5.481(a)(1) requires completion of the ICWA-010(A) and ICWA-020 Parental Notification of Indian Status for inquiry documentation. ICWA forms are available on the Judicial council's website at <http://www.courts.ca.gov>.

HANDBOOK ENDS HERE

- .224 If the results of the inquiry indicate that the child is, or may be, an Indian child and a petition for removal pursuant to Welfare and Institutions Code section 313 is filed, the social worker must complete and comply with the notice requirements of Section 31-125.7.
- .225 If the results of the inquiry indicate that the child is, or may be, an Indian child except that the child's tribe is a non-federally recognized tribe, and a petition for removal pursuant to Welfare and Institutions Code section 313 is filed, the social worker is authorized to inform the tribe that the tribe may seek permission to participate in the child's dependency case at the discretion of the court, pursuant to Section 306.6 of the Welfare and Institutions Code.

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Welfare and Institutions Code section 306.6(b) provides, as it pertains to non federally recognized tribes:

"(b) If the court permits a tribe to participate in a proceeding, the tribe may do all of the following, upon consent of the court:

- (1) Be present at the hearing.
- (2) Address the court.
- (3) Request and receive notice of hearings.
- (4) Request to examine court documents relating to the proceeding.
- (5) Present information to the court that is relevant to the proceeding.
- (6) Submit written reports and recommendations to the court.
- (7) Perform other duties and responsibilities as requested or approved by the court."

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CHILD WELFARE SERVICES PROGRAM**Regulations****INTAKE****31-125 (Cont.)**

31-125 INVESTIGATION REQUIREMENTS
(Continued)**31-125**

- .23 If as a result of the investigation the social worker has determined the referral is not unfounded, and has completed the requirements in Section 31-125.22 and documented the results in the case record, the decision whether to conduct an in-person investigation with any additional children who were not present at the initial in-person investigation shall be at the discretion of the county.
- .3 If as a result of the investigation it is determined that neither child welfare services nor a referral to any other community agency is necessary, the social worker shall document this determination.
- .4 If as a result of the investigation it is determined that child welfare services are unnecessary, but that the services of another community agency are appropriate, the social worker shall refer the child and/or family to such agency and shall document the determination and referral(s).
- .5 If as a result of the investigation the social worker determines services are necessary, the social worker shall:
- .51 Perform the requirements specified in Chapter 31-200.
- .6 In addition to inquiry required in Section 31-125.223 the social worker shall provide a copy of and explain the Parental Notification of Indian Status form (ICWA-020) to the parent(s), Indian custodian or guardian, if any, and ask that the form be completed.

HANDBOOK BEGINS HERE

California Rule of Court, rule 5.481(a)(2) requires completion of the ICWA-020. Pursuant to this rule, the court may also order the county to use reasonable diligence to locate and ask a parent, Indian custodian, or guardian to complete the form if the parent, Indian custodian, or guardian does not personally appear at a hearing. ICWA forms are available on the Judicial Council's website at <http://www.courts.ca.gov>.

HANDBOOK ENDS HERE

- .7 If, as a result of the inquiry required in Section 31-125.223, the social worker knows or has reason to know that the child is or may be an Indian child and a dependency petition is filed, notice of the proceeding(s) shall be sent to the child's parent, guardian, or Indian custodian, if any, and the tribe or tribes with whom the child is a member or eligible for membership or potentially affiliated. The social worker should secure verification from a tribe as early as possible to facilitate provision of Active Efforts as soon as possible. Notices shall be sent as follows:
- .71 Notice shall be sent by registered or certified mail with return receipt requested.

31-125 INVESTIGATION REQUIREMENTS 31-125
(Continued)

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Sending follow-up notice by first-class mail is recommended to facilitate Active Efforts and engagement of the tribe(s).

HANDBOOK ENDS HERE

- .72 Notice to a tribe shall be sent to its tribal chairperson unless the tribe has designated another individual on the list of "Indian Child Welfare Act Designated Tribal Agents for Service of Notice" published by the Department of the Interior, Bureau of Indian Affairs (BIAs). If an agent has been designated by a tribe, it is mandatory that the notice be sent to the agent.

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The ICWA provides that Indian tribes may designate an agent other than the tribal chair for service of notice of proceedings under the ICWA. The BIA list of designated tribal agents for service of ICWA notice can be found at: <http://www.bia.gov/cs/groups/public/documents/text/idc012540.pdf>. Always check for the most current publication of the BIA list as it is generally updated on an annual basis.

HANDBOOK ENDS HERE

- .73 Notice shall also be sent directly to the Secretary of the Interior and to the Bureau of Indian Affairs, Sacramento Area Director regardless of whether the identity or location of the parent/guardian/Indian custodian or the child's tribe is known or unknown. Notices shall be sent to the following two addresses:

Secretary of the Interior
Bureau of Indian Affairs, Sacramento Area Director
2800 Cottage Way
Sacramento, CA 95825; and,

Secretary of the Interior
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240.

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California expanded the ICWA notice requirements to include sending a copy directly to the Secretary of the Interior even where the tribe is known.

HANDBOOK CONTINUES

31-125 INVESTIGATION REQUIREMENTS 31-125
(Continued)

HANDBOOK CONTINUES

Welfare and Institutions Code section 224.2(a)(4) states:

"If the identity or location of the parents, Indian custodians, or the minor's tribe is known, a copy of the notice shall also be sent directly to the Secretary of the Interior, unless the Secretary of the Interior has waived the notice in writing and the person responsible for giving notice under this section has filed proof of the waiver with the court."

HANDBOOK ENDS HERE

- .731 Notice shall be sent using the Notice of Child Custody Proceeding for Indian Child (form ICWA-030). The notice must be sent by registered or certified mail and the notice must be sent far enough in advance that it will be received at least 10 days before the hearing date.
- .732 Notice shall continue to be sent regarding each hearing to each tribe in which an Indian child may be a member or eligible for membership.
- (a) Once a tribe has acknowledged a child is a member or eligible for membership or has intervened in the proceeding, subsequent notices of the proceedings only need to be sent to the child's tribe and no longer need to include the ancestral information, a copy of the petition in the proceeding, a copy of the child's birth certificate, nor the statement of rights.
- .74 Each notice sent, its return receipt, and each response received shall be maintained and a copy of each filed with the court.
- .75 Notice must be sent in a manner to ensure an Indian child's parent or legal guardian or Indian custodian, if any, and the tribe receive the notice at least 10 days prior to the hearing date. Upon request an additional 20 days will be granted. Notice prior to detention hearing must be sent as soon as possible after the filing of a petition and proof of notice filed within 10 days after filing the petition.

HANDBOOK BEGINS HERE

Welfare and Institutions Code Section 224.2(d) provides, in part, that with the exception of a detention hearing, the parent, Indian custodian, or the tribe shall, upon request, be granted up to 20 additional days to prepare for the proceeding.

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| 31-125 | INVESTIGATION REQUIREMENTS | 31-125 |
| | (Continued) | |

- .76 If at the time of the dependency court appearance, no determination of tribal standing is made by the tribe or there has been no response from the tribe regarding the child's status as an Indian child, as defined by the ICWA, the social worker shall:
 - .761 Advise the court of all information which indicates that the child may be an Indian child.
 - .762 Advise the court of all efforts made to establish and verify the child's status as an Indian child including contacts made with parents, Indian custodians, extended family and why information may be missing from form ICWA-030.
 - .763 Request direction from the court on how to proceed with the dependency action.
 - .764 Continue contacts with the tribe and the BIA until the question of the child's status as an Indian child, as defined by the ICWA, has been resolved and the resolution is documented in the case record for future reference.
 - .765 If after notice has been provided and neither the tribe nor the BIA has provided a determinative response within 60 days after receiving that notice, then the court may determine that the ICWA does not apply to the proceedings, provided that the court must reverse its determination of the inapplicability of the act and must apply it prospectively if a tribe or the BIA subsequently confirms that the child is an Indian child.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 224.2, 224.3, 300, 306.6, 361.7, 16504, 16509, and 16509.1, Welfare and Institutions Code; Section 11165.12, Penal Code; 25 USC 1901 et seq.; and California Rules of Court, rule 5.481.

CHILD WELFARE SERVICES PROGRAM**Regulations****INTAKE****31-135 (Cont.)**

31-130 LAW ENFORCEMENT ASSISTANCE 31-130

- .1 The social worker shall request law enforcement assistance under either of the following circumstances:
 - .11 The physical safety of family members or county staff is endangered.
 - .12 A child must be placed in temporary custody and the social worker is not deputized as a peace officer or authorized by Welfare and Institutions Code Section 306(b) to take temporary custody.
 - .121 The social worker may take a child into temporary custody without the assistance of law enforcement whenever authorized to do so under Welfare and Institutions Code Section 306.
- .2 Law enforcement assistance shall be used as an aid to emergency response services and not as a substitute for any of the following:
 - .21 Completion of the emergency response protocol as specified in Section 31-105.
 - .22 Performance of the in-person investigation specified in Section 31-110.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 306, 10553, and 10554, Welfare and Institutions Code.

31-135 AUTHORITY FOR REMOVAL OF CHILD 31-135

- .1 When the social worker determines that the child cannot be safely maintained in his/her own home, the social worker shall ensure that authority to remove the child exists prior to removal.
 - .11 If removal is voluntary, such authority shall be the written consent of the parent/guardian/Indian custodian; and in the case of an Indian child the social worker shall comply with the consent requirements that are more fully set forth in Section 31-430.
 - .111 In the situation where the placement may no longer be voluntary, in that there is a determination the child will not be returned to the parent/guardian/Indian custodian, the social worker must comply with the higher requirements of ICWA including the duty to engage in Active Efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and to comply with the ICWA placement preferences.
 - .12 If removal is involuntary, such authority shall be temporary custody as specified in Welfare and Institutions Code Sections 305 and 306, or a court order.

CHILD WELFARE SERVICES PROGRAM**31-135 (Cont.)****INTAKE****Regulations**

31-135 AUTHORITY FOR REMOVAL OF CHILD
(Continued)**31-135**

.121 If a determination has been made in accordance with Welfare and Institutions Code Section 308 that the minor or his/her foster family would be endangered or his/her custody would be disturbed by the disclosure to the parent(s)/guardian(s)/Indian custodian of the minor's exact whereabouts, the social worker shall notify immediately the parent(s)/guardian(s)/Indian custodian either in-person or by telephone of his/her right to apply for judicial review of that determination within 24 hours.

(a) If the social worker fails to notify the parent(s)/guardian(s)/Indian custodian(s) as specified in Section 31-135.121, the social worker shall document in the case record the reason(s) for failure to do so.

.122 If the child is an Indian child, involuntary removal must be supported by clear and convincing evidence that the continued custody of the child by the parent or Indian custodian was likely to result in serious emotional or physical damage to the child. The determination on emotional or physical damage to the child must be supported in court by the testimony of a qualified expert witness.

.2 The social worker shall document in the case record all Pre-Placement preventive efforts made or services provided.

.21 If first contact with the family occurs during an emergency situation in which the child cannot safely remain in the home, even with reasonable services being provided, the social worker shall document those circumstances in the case record.

.22 If the child has been removed due to the absence of the parent(s), for one of the reasons stated in Welfare and Institutions Code Section 361(b)(5), the social worker shall document those circumstances in the case record.

.23 In the case of an Indian child, pre-placement preventive efforts shall include Active Efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family prior to the removal of a child from the family.

.231 Active Efforts shall include but not be limited to the following efforts to:

(a) Identify the child's Indian heritage in the assessment process.

(b) Take into account the prevailing social and cultural standards, and way of life of the Indian child's tribe.

(c) Utilize tribal resources to support Pre-Placement preventive efforts, including resources available from the child's extended family, tribe, tribally based family preservation and reunification or other services when available; and non-Indian resources when tribal resources are not available.

31-135 AUTHORITY FOR REMOVAL OF CHILD
(Continued)

31-135

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Examples of Active Efforts are provided in Section 31-002(a) based on the 2012 BIA Guidelines A.2. Additional examples of Active Efforts include, but are not limited to, the following:

- (1) Facilitating identification of tribal services, such as financial assistance, food, housing, health care, mental health treatment, substance abuse prevention & treatment, parenting classes, and transportation. Local Tribal TANF agencies may be able to provide necessary supports to the family to prevent the breakup of the Indian family.
- (2) Integrating tribal social workers or representatives into multidisciplinary teams pursuant to Welfare and Institutions Code sections 18951(d)(4) and 18964.
- (3) Requesting the child's tribe's participation in multidisciplinary team as provided under Welfare and Institutions Code section 18951.

HANDBOOK ENDS HERE

- .233 The social worker shall document in the Indian child's case files the Active Efforts to prevent the removal of the child. If the determination is to remove the child, the social worker must document that the Active Efforts proved unsuccessful and the reasons why, and include this information in court reports.
- .234 When it comes to the attention of the social worker that an Indian child that has been removed from the custody of his or her parent(s), or Indian custodian(s), is already a ward of the child's tribe or subject to the exclusive jurisdiction of the child's tribe, the social worker shall notify the tribe of the removal, pursuant to Welfare and Institutions Code section 305.5(a), no later than the next working day following the removal. The social worker shall do the following:
- (a) Notify the child's tribe in writing that the child has been taken into protective custody, that a petition pursuant to Welfare and Institutions Code section 313 is pending or has been filed, and that the county has reason to believe the child is a ward of the tribe or subject to the tribe's exclusive jurisdiction. The notice shall:
 - (1) Provide the child's name, date of birth, name of parent or Indian custodian, and the date of removal.

31-135 AUTHORITY FOR REMOVAL OF CHILD
(Continued)

31-135

- (2) Request that the tribe confirm if the child is a ward of its tribal court or under its exclusive jurisdiction.
 - (3) Inform the tribe that upon receipt of written confirmation that the child is a ward or under the tribe's exclusive jurisdiction, a request shall be made to the juvenile court for an order to transfer the child custody proceeding to the tribe pursuant to Welfare and Institutions Code sections 381 and 305.5.
 - (4) Inform the tribe that additional information regarding the circumstances that created the reason for the removal of the child may be requested by the tribe, along with information necessary to confirm the child's status with the tribe.
- (b) The notice shall be addressed to the tribal chair or the ICWA designated agent for service and sent via facsimile or secure email. If communication by secure email or facsimile is not available, then notice shall be sent via overnight delivery. In addition, contact with the tribe shall be made by telephone to inform the tribe of the removal of the child.
- (c) Upon written confirmation of the child's status as a ward of the tribe or as subject to its exclusive jurisdiction, the social worker shall initiate before the juvenile court a petition to transfer pursuant to Welfare and Institutions Code section 305.5(a) and seek a determination pursuant to Welfare and Institutions Code section 381.
- (d) When the order to transfer the child custody proceeding to the tribe is issued, the social worker shall within 24 hours make arrangements for the safe physical transfer of the child and release the child's entire case file for the current episode to the tribe subject to the tribe's agreement to maintain the documentation confidential consistent with state and federal law.
- (e) The social worker shall document each communication with the tribe regarding the notification of the removal, the final outcome and shall retain a copy of the entire case upon transfer of the child.
- (f) The social worker must advise the court of the facts that suggest the child may be a ward of a tribal court or subject to the exclusive jurisdiction of the tribe.

31-135 AUTHORITY FOR REMOVAL OF CHILD
(Continued)**31-135**

HANDBOOK BEGINS HERE

Welfare and Institutions Code sections 305.5 and 381(c) provide for expedited review of transfer petitions and are to have precedence over all actions and civil proceedings not specifically given such precedence, and are to be heard at the earliest possible moment.

HANDBOOK ENDS HERE

.3 If the child is in out-of-home placement following a voluntary removal, and the social worker determines that continued out-of-home placement is necessary for the child's protection, the county shall implement a voluntary placement agreement as specified in Section 31-430.31.

.31 A voluntary removal of an Indian child shall comply with the consent requirements for Indian children that are set forth in Section 31-430.

.4 If the child is in temporary custody following an involuntary removal, and the social worker determines that continued detention is necessary for the child's protection, the social worker shall take the following action:

.41 File a petition for detention of and jurisdiction over the child within 48 hours of the child's removal from his/her home, excluding nonjudicial days.

HANDBOOK BEGINS HERE

Juvenile court procedures regarding detention of minors and filing petitions are described in Welfare and Institutions Code Sections 311(a), 319, and 332.

HANDBOOK ENDS HERE

.42 If the child is an Indian child, involuntary removal from the parent or Indian custodian or placement out of the home must be supported by clear and convincing evidence that the continued custody of the child by the parent or Indian custodian was likely to result in serious emotional or physical damage to the child. The determination of emotional or physical damage to the child must be supported in court by the testimony of a qualified expert witness.

.421 A qualified expert witness should have specific knowledge of the Indian tribe's culture and customs. When selecting a qualified expert witness, the agency whenever possible should consider whether the child's tribe recognizes the individual as having substantial experience in the delivery of child and family services to Indians and knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe. Such an individual can include:

31-135 AUTHORITY FOR REMOVAL OF CHILD
(Continued)**31-135**

- (a) A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and childrearing practices.
 - (b) A member of another tribe who is recognized to be a qualified expert witness by the Indian child's tribe based on their knowledge of the delivery of child and family services to Indians and the Indian child's tribe.
 - (c) A layperson who is recognized by the Indian child's tribe as having substantial experience in the delivery of child and family services to Indians and knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe.
 - (d) A professional person having substantial education and experience in the area of his or her specialty who can demonstrate knowledge of the prevailing social and cultural standards and childrearing practices within the Indian child's tribe.
- .422 A qualified expert witness cannot be an employee of the person or agency recommending a foster care placement or termination of parental rights.

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The Welfare and Institutions Code sections 224.6(c) and (d) provide:

- "(c) Persons with the following characteristics are most likely to meet the requirements for a qualified expert witness for purposes of Indian child custody proceedings:
- (1) A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and childrearing practices.
 - (2) Any expert witness having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe.
 - (3) A professional person having substantial education and experience in the area of his or her specialty."

HANDBOOK CONTINUES

CHILD WELFARE SERVICES PROGRAM**Regulations****INTAKE****31-136 (Cont.)**

31-135 AUTHORITY FOR REMOVAL OF CHILD
(Continued)**31-135**

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The 2015 BIA Guidelines at section D.4 provide guidance that there is a descending order on those individuals that are presumed to meet the characteristics of a qualified expert witness. The individuals listed in .421 are those presumed by the BIA Guidelines as meeting the characteristic of a qualified expert witness.

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- .43 Consider the prevailing social and cultural standards and way of life of the Indian child's tribe, including that tribe's family organization and childrearing practices.
- .44 The social worker may request the assistance of the Indian child's tribe or the BIA agency serving the Indian child's tribe in locating persons qualified to serve as an expert witness.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 224.3, 224.6, 305, 305.5, 306, 308; 361.7, 381, and 16507.4, Welfare and Institutions Code; and 25 USC 1903(6), 1911, 1912, 1913(a), and 1915.

31-136 TRANSFER OF AN INDIAN CHILD**31-136**

- .1 **Transfer of An Indian Child to A Tribe:** In the case of an Indian child under state court jurisdiction, where a petition is granted to transfer the case to a tribe the following shall apply:
 - .11 In all cases where a child is being transferred, the social worker shall ensure the physical transfer of the child, without undue delay, to the designated representative of the child's tribe or tribal program. The physical transfer of the Indian child to his or her tribe must be made consistent with local child welfare protocols that are mutually agreed upon between a county and a tribe, where such protocols exist.
 - .12 Where the transfer is not to a Tribal Title IV-E Agency pursuant to the juvenile court's order of transfer, the entire case file shall be provided to the tribe subject to the tribe's agreement to maintain the documentation confidential consistent with state and federal law. A copy of the file shall be retained by the child welfare agency.

31-136 TRANSFER OF AN INDIAN CHILD
(Continued)**31-136**

- .2 **Transfer to Tribal Title IV-E Agency:** Pursuant to 45 CFR 1356.67, in order to preserve the child's eligibility for federal Title IV-E AFDC-FC benefits, the following shall apply when an Indian child is being transferred from county jurisdiction to a Tribal Title IV-E Agency:
- .21 The social worker shall transfer the child in a manner that does not affect the child's eligibility for or payment of Title IV-E or other federal benefits, including medical assistance under Title XIX.
- .22 Prior to transfer of the child, the child's Title IV-E eligibility determination must be completed, and all documentation related to that determination shall be provided to the Tribal Title IV-E Agency.
- .23 The entire case file for the child's current foster care episode shall be provided to the Tribal Title IV-E Agency. The child welfare agency shall retain a copy of the documents provided upon transfer.
- .24 Essential documents that must be provided upon transfer are the following:
- .241 All judicial determinations that continuation in the home from which the child was removed would be contrary to the welfare of the child and that reasonable efforts have been made to prevent or eliminate the need for removal of the child.
- .242 Documentation that relates to the child's Title IV-E eligibility, including the following, as applicable:
- (a) Foster Care Form 3 (FC3) "Determination of Federal Aid to Families with Dependent Children (AFDC) Foster Care Eligibility".
- (b) Adoption Assistance Form 4 "Eligibility Certification Adoption Assistance Program" (AAP4).
- (c) Kinship Guardianship "Statement of Facts Supporting Eligibility for Kinship Guardianship Assistance payment (KinGAP)" (KG2).
- .243 Documentation pertaining to the child's eligibility for other federal benefits including Medicaid programs under Title XIX, Social Security Disability or other federal benefits.

31-136 TRANSFER OF AN INDIAN CHILD
(Continued)**31-136**

- .244 The most recent provider's license or approval including background check documentation verifying clearances for all adults in the caregiver's household and complaint information.

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Certain California tribes that have entered into a Title IV-E agreement with the CDSS. In addition, there are tribes in other states that have entered into Title IV-E agreements with their states or directly with the Federal Administration on Children and Families. To the extent available, a list of IV-E tribal programs can be found on the CDSS ICWA website at: <http://www.childsworld.ca.gov/PG1322.htm>.

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.3 Transfer of a Ward of A Tribal Court or An Exclusive Jurisdiction Tribe:

- .31 Where the social worker is informed that an Indian child that has been taken into temporary protective custody is already a ward of a tribal court or is from an exclusive jurisdiction tribe, the social worker shall, no later than the next working day, seek written confirmation of the child's status from the tribe by providing notice as specified in Section 31-135.234.
- .32 Upon written confirmation of the child's status as a ward of the tribe or subject to its exclusive jurisdiction, the social worker shall expeditiously initiate a petition for the transfer of the child custody proceeding pursuant to Welfare and Institutions Code sections 305.5(a) and 381(a) and advise the state court of the facts that suggest the child may be ward of a tribal court or subject to the exclusive jurisdiction of a tribe.
- .33 When the court order to transfer the child custody proceeding to the tribe is issued, the social worker shall within 24 hours make arrangements for the safe physical transfer of the child and release the child's entire case file for the current episode to the tribe subject to the tribe's agreement to maintain the documentation confidential consistent with state and federal law. The child welfare agency shall retain a copy of the documents provided to the tribe upon transfer.

31-136 TRANSFER OF AN INDIAN CHILD
(Continued)**31-136**

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Welfare and Institutions Code section 305.5(a) provides:

"(a) If an Indian child, who is a ward of a tribal court or resides or is domiciled within a reservation of an Indian tribe that has exclusive jurisdiction over child custody proceedings as recognized in Section 1911 of Title 25 of the United States Code or reassumed exclusive jurisdiction over Indian child custody proceedings pursuant to Section 1918 of Title 25 of the United States Code, has been removed by a state or local authority from the custody of his or her parents or Indian custodian, the state or local authority shall provide notice of the removal to the tribe no later than the next working day following the removal and shall provide all relevant documentation to the tribe regarding the removal and the child's identity. If the tribe determines that the child is an Indian child, the state or local authority shall transfer the child custody proceeding to the tribe within 24 hours after receipt of written notice from the tribe of that determination."

Questions regarding exclusive jurisdiction tribes or other issues related to transfers, contact the CDSS ICWA staff at:

Email: ICWA@dss.ca.gov
California Department of Social Services
Children and Family Services Division
744 P Street
Sacramento, CA 95814

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 305.5, 381, 827.15, and 10553.1, Welfare and Institutions Code; 25 USC 1911, 1918, and 1919; 42 USC 670, 679c et seq.; 45 CFR 1357.67; and PL 110-351.

CHAPTER 31-200 ASSESSMENT AND CASE PLAN**31-201 ASSESSMENT AND CASE PLANNING PROCESS****31-201**

- .1 When it has been determined that child welfare services are to be provided the social worker shall:
- .11 Complete an assessment.
 - .111 An assessment is completed for each child for whom child welfare services are to be provided, and includes gathering and evaluating information relevant to the case situation and appraising case services needs.
 - (a) In the case of an Indian child, the assessment shall include Active Efforts as specified in Sections 31-135.23 and 31-420.3. The assessment shall include information received from the child's tribe, the child's extended family and Indian service providers regarding the resources available to the child and the family. Additionally, in appraising the case service needs the social worker shall consider the child's tribe placement and permanency preferences when removal is necessary.
 - .12 Determine the case plan goal.
 - .121 When determining the case plan goal, the social worker shall consider the following order of priority for services:
 - (a) Family maintenance services - In order to maintain the child in his/her own home, when the protective needs of the child can be met. In the case of an Indian child, family maintenance services shall include Active Efforts to provide remedial services and rehabilitative programs to prevent the breakup of the Indian family as described in Section 31-135.23.
 - (b) Family reunification services - If the family potentially can be successfully reunified within the time limits specified in Welfare and Institutions Code Sections 16507 and 16507.3. In the case of an Indian child, family reunification services shall include Active Efforts to provide remedial services and rehabilitative programs to prevent the breakup of the Indian family as described in Section 31-135.23. If the child is placed out of home and is receiving family reunification services, the case plan shall have two tracks:
 - (1) The family reunification track, which consists of services described in Welfare and Institutions Code Section 16501(h).
 - (2) The concurrent services track, which identifies the child's permanency alternative and the services necessary to achieve legal permanence should family reunification fail.

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| 31-201 | ASSESSMENT AND CASE PLANNING PROCESS (Continued) | 31-201 |
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- (c) Permanent placement services - Only when there are no feasible means of maintaining or reuniting the child with his/her parent(s)/guardian(s).
 - (1) When the child has been detained and one or more of the following circumstances exist, the social worker may recommend permanent placement services.
 - (A) The whereabouts of the parent(s)/guardian(s) is unknown.
 - (B) The parent(s)/guardian(s) is suffering from a mental disability that renders him/her incapable of utilizing family reunification services.
 - (2) When the child is detained, and one or more of the following circumstances exist, the social worker must recommend permanent placement services, unless the court finds, by clear and convincing evidence, that reunification is in the best interests of the child.
 - (A) The child or sibling of the child had been previously adjudicated a dependent as a result of physical or sexual abuse; had been removed from the custody of the parent(s)/guardian(s); had been returned to the custody of the parent(s)/guardian(s); and has again been removed due to additional physical or sexual abuse.
 - (B) The parent(s)/guardian(s) of the child has caused the death of another child through abuse or neglect.
 - (C) The child is under the age of five and has come under court jurisdiction due to severe physical abuse as specified in Welfare and Institutions Code Section 300(e).
 - (D) The child has come under court jurisdiction due to severe sexual abuse (Welfare and Institutions Code Section 361.5(b)(6)) or severe physical abuse (Welfare and Institutions Code Section 361.5(b)(6)) inflicted upon the child, a sibling or half-sibling.
 - (E) The parent(s)/guardian(s) is incarcerated or institutionalized and the social worker has determined, based on the criteria specified in Welfare and Institutions Code Section 361.5(e)(1) that permanent placement services are appropriate.

31-201 ASSESSMENT AND CASE PLANNING PROCESS
(Continued)**31-201**

(F) The parent or guardian of the minor has advised the court that he or she is not interested in receiving family maintenance or reunification services pursuant to Welfare and Institutions Code Section 361.5(b)(13).

(3) When recommending a permanent placement services, the social worker shall adhere to the following order of priority for permanent placement:

(A) Adoption - Before the social worker recommends to the court that family reunification services be terminated, a case review conducted jointly by foster care and adoption staff to determine potential for adoption shall have been completed.

1. If the case review is to address a potential relative adoption, it shall address whether a kinship adoption is in the child's best interest.

2. If the case review is to address a potential adoption of an Indian child, the following shall also apply when evaluating the child's permanency alternatives:

a. In any pre-adoptive or adoptive placement of an Indian child, preference shall be given, in the absence of good cause to the contrary, in descending priority order to placement with:

(i) A member of the Indian child's extended family which shall be defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

(ii) Other members of the child's tribe;

(iii) Another Indian family;

(iv) If a different order has been established by the tribe, the order preferred by the tribe so long as the placement is in the least restrictive setting appropriate for the child;

31-201 ASSESSMENT AND CASE PLANNING PROCESS
(Continued)

31-201

- (v) When no preferred placement is available, Active Efforts shall be made to place the child with a family committed to enabling the child to have extended family visitation and participation in the cultural and ceremonial events of the child's tribe.

- 3. If the permanent placement may lead to the termination of parental rights of the Indian child's parent, the social worker must consider that no termination may be ordered in such proceeding in the absence of a determination, which will have to be supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. Evidence must also be presented that Active Efforts have been made designed to prevent the breakup of the Indian family and that the efforts proved unsuccessful.

- 4. Before the social worker recommends termination of parental rights, the review shall evaluate whether the termination of parental rights would substantially interfere with the child's connection to his or her tribal community, or tribal membership.

- 5. The review shall evaluate whether there is another planned permanent living arrangement for the child that does not require termination of parental rights but that nonetheless provides the child with permanency.

- 6. The review shall evaluate, after soliciting input and consulting with the child's tribe, whether a Tribal Customary Adoption is a potential option for the child pursuant to Welfare and Institutions Code Section 366.24.

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(Continued)

7. If the tribe elects to consider Tribal Customary Adoption for the child, the social worker shall collaborate with the tribe in meeting the requirements set forth in Welfare and Institutions Code Section 366.24.

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The Indian child's tribe is the only entity that can elect Tribal Customary Adoption as the permanency option for the child. The tribe may express a preference for a different option. [Welfare and Institutions Code section 366.26(c)(1)(B)(vi)(II)]. No tribe is required to elect Tribal Customary Adoption.

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8. When a case is referred for adoption planning, it shall remain under county supervision for purposes of providing child welfare services until dismissal of the dependency and issuance of a final decree of adoption.
- (B) Guardianship - If kinship adoption or adoption is not possible, the case shall be reviewed for guardianship. Preference shall be given to guardianships by relatives.

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Welfare and Institutions Code section 361.3 specifies that all relative caregivers must be assessed by a specific set of criteria that includes the safety of the home, the character of the relative, and the ability to provide permanency for the child, among other elements. Welfare and Institutions Code section 309(d) also specifies that all relative caregivers must be assessed for suitability, including obtaining criminal background and child abuse index checks. Welfare and Institutions Code section 361.4 describes criminal background and child abuse index checks in more detail. All of the information required for an assessment provides the foundation for determining whether or not guardianship with the relative is appropriate and in the child's best interest.

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| 31-201 | ASSESSMENT AND CASE PLANNING PROCESS (Continued) | 31-201 |
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For more information about the relative approval process, please see the Children and Family Services Division web page on the CDSS website at www.dss.cahwnet.gov. There are links to kinship care topics, including access to relevant All-County Letters and Information Notices.

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- (C) Long term foster care - Only if adoption or guardianship is not possible, a recommendation for long-term foster care placement shall be made. Exercise of this option requires continued efforts to obtain adoption, guardianship or preparation for independence for the child.

- .13 Develop the case plan which shall identify the following factors and document the plan as specified in Section 31-205:
 - .131 Objectives to be achieved.
 - .132 Specific services to be provided.
 - .133 Case management activities to be performed.
 - (a) Parent(s)/guardian(s) shall be requested to participate in the development of the case plan. In the case of an Indian child, the child's extended family, tribe, or tribal advocate or Indian custodian, if the child has one, shall also be requested to participate in the development of the case plan.
 - (b) Parents shall be advised that, at any time during the child's dependency, they may request adoption counseling and services.

NOTE: Authority Cited: Sections 10553, 10554, and 11369, Welfare and Institutions Code. Reference: Sections 224.6, 358.1, 361, 361.5, 361.7, 361.31, 366.23, 366.24, 366.26, 16501, 16501.1, 16501.1, 16506, 16507, and 16508, Welfare and Institutions Code; Sections 8714.5 and 8714.7, Family Code; California Rules of Court, rule 5.690(c); and 25 USC 1912 and 1915.

31-205 ASSESSMENT DOCUMENTATION**31-205**

- .1 The social worker shall document the following assessment information:
- .11 The relevant social, cultural, and physical factors relating to the following:
 - .111 The child.
 - (a) In the case of an Indian child, the social worker shall include information about the prevailing social and cultural standards and way of life of the Indian child's tribe, including family organization and child-rearing practices.
 - .112 The child's parent(s)/guardian(s), Indian custodian(s) or person(s) serving in that role.
 - .113 Other significant persons, including children and siblings, who are known to reside in the home.
 - .12 The apparent problems, and possible causes of those problems, which require intervention and the family strengths which could aid in problem resolution.
 - .13 Whether the child may safely remain at home if Pre-Placement preventive services are provided, and, if so, the specific services to be provided.
 - .131 In the case of an Indian child, the social worker shall document the Pre-Placement preventive services that comprise the Active Efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family as described in Section 31-135.23 that have been or will be provided.
 - .14 If the child is a parent, any special needs of the child with regard to his/her role as a parent.
 - .15 If the child has been removed based on one of the findings pursuant to Welfare and Institutions Code Section 361.5(b), the circumstances relating to the finding and whether failure to order family reunification services would likely be detrimental to the child.
 - .16 Any known social services previously offered and/or delivered to the child or family and the result of those services.
 - .161 In the case of an Indian child, documentation shall additionally include information about all known social services previously offered and/or delivered to the child or family including those provided as Active Efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family, as required by Section 31-135.23, and the results of those efforts.

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| 31-205 | ASSESSMENT DOCUMENTATION | 31-205 |
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(Continued)

- .17 If family reunification services are recommended, relatives or others who could provide or assist with legal permanency - adoption, guardianship, or preparation for independence - should family reunification fail.
 - .171 In the case of an Indian child, documentation shall additionally include information about relatives and extended family members, tribal representatives, other Indian social service agencies and individual Indian caregivers who can provide or assist with legal permanency should family reunification fail.

- .18 If family reunification services are not recommended, and the permanency plan for the child is a kinship guardianship, the following:
 - (1) Being returned home or adopted are not appropriate permanency options for the child.
 - (2) The child demonstrates a strong attachment to the prospective kinship guardian.
 - (3) The kinship guardian has a strong commitment to caring permanently for the child.
 - (4) A child over 12 years of age has been consulted about the proposed kinship guardianship arrangements.
 - (A) If the child's age or physical, emotional or other condition prevents the child from giving a meaningful response, a description of the child's condition.

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| 31-205 | ASSESSMENT DOCUMENTATION (Continued) | 31-205 |
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- | .19 The need, if known, for any health/medical care.
- | .20 The condition(s) which are met that allow a child under the age of six to be placed in a group home in accordance with Section 31-405.1(b).
- | .21 The condition(s) which is met that allows a child to be placed in a community treatment facility in accordance with Section 31-406.

- .2 The county shall be permitted to combine the assessment with the case plan as one document provided that:
 - .21 The assessment and the case plan are each readily identifiable as such; and
 - .22 The combined document contains all of the necessary components of both the assessment and the case plan.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 224.6, 361, 361.31, 361.5, 361.7, 366.21, 366.24, 4094, 4094.5, 4094.6, 4094.7, 5585.58, 5600.3, 11467.1, 16501, 16501.1, and 16507, Welfare and Institutions Code; 42 USC 675(1) and 677; Sections 1502, Health and Safety Code; and 25 USC 1912 and 1915.

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| 31-206 | CASE PLAN DOCUMENTATION | 31-206 |
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- .1 The social worker shall document in the case plan the case plan goal which the social worker has determined as specified in Section 31-201.12 to be appropriate for each child.

- .2 The social worker shall document in the case plan the following information regarding case plan objectives for each person named in the case plan:
 - .21 Measurable, time-limited objectives based on the problems and family strengths identified in the assessment.
 - .211 The social worker shall include specific descriptions of the responsibilities of the parent(s)/guardian(s) in meeting the case plan objectives.
 - .212 Discussion of advisement to the parent(s) that at any time during the child's dependency he/she/they may request adoption counseling and services.

31-206 CASE PLAN DOCUMENTATION
(Continued)**31-206**

- .22 The specific services to be provided and the case management activities to be performed in order to meet the case plan objectives and goal.
- .221 The social worker shall include specific descriptions of the responsibilities of the social worker, other county staff, other individuals, and community agencies in the provision of services and the performance of case management activities.
- (a) In the case of an Indian child, the social worker shall include a description of the specific services available and being provided to the child by the tribe, the Indian caregiver, other Indian service agencies or Indian organizations.
- .222 For children in out-of-home care, the social worker shall document the two services tracks identified for children receiving family reunification services.
- (a) The services to be provided to assist the parent(s), guardian, or Indian custodian in reunifying with the child as identified in the family reunification services track. In the case of an Indian child, the social worker shall also document Active Efforts to prevent the breakup of the Indian family as required by Section 31-135.23.
- (b) The services to be provided and steps to be taken to implement the permanency alternative identified in the case plan if family reunification fails.
- (1) In the case of an Indian child, the social worker shall document the services to be provided and the steps to be taken to implement the permanency alternative, including, in the case of an Indian child, Tribal Customary Adoption, identified in the case plan, if family reunification fails. Permanent placement may only occur if there is evidence beyond a reasonable doubt that is supported by the testimony of a qualified expert witness as required by Section 31-135.42 that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The social worker shall also document compliance with the standards required by ICWA as detailed in Section 31-201.121(c)(3)(A)2 through 7.

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| 31-206 | CASE PLAN DOCUMENTATION (Continued) | 31-206 |
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- .23 The projected date for completion of case plan objectives and the date child welfare services are to be terminated.

- .24 The schedule of planned social worker contacts and visits with the child and the family in accordance with Sections 31-320 and 31-325.
 - .241 The social worker shall document in the case record the justification for any exceptions to the contact or visit requirements specified in Sections 31-320 and 31-325.

- .3 For children receiving out-of-home care, the social worker shall also document in the case plan, the following:
 - .31 An assessment of the child's placement needs and a determination and description of the type of home or institution which will best meet those needs.
 - .311 In the case of an Indian child, the assessment shall include a description of the social worker's Active Efforts made to comply with the ICWA placement preference standards as further specified in Section 31-420.3 and if this did not occur document reasons why this did not occur.
 - (a) The assessment shall include all efforts made, or to be made, to find a placement within the order of preference required by ICWA, the position of the Indian child's tribe on the placement, and what facts, if any, provide good cause to deviate from the ICWA placement preferences. Deviation for the ICWA placement preference order may occur only with good cause as determined by the court.

 - .312 If siblings are not placed together, the social worker shall document the diligent efforts to place siblings together and reasons why they were not placed together, if applicable.

 - .313 For children placed out-of-county, the rationale for out-of-county placement, and a description of the specific responsibilities of the sending and receiving counties, in accordance with the provisions of Section 31-505.
 - (a) When an out-of-state group home placement is recommended or made, the case plan shall document the recommendation of the multidisciplinary team, pursuant to MPP Section 31-066 and the rationale for this particular placement. The case plan shall address what in-state services or facilities were used or considered and why they were not recommended.

31-206 CASE PLAN DOCUMENTATION 31-206

- .314 For children placed in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the parent(s) or guardian(s) or out-of-state, the case plan shall specify the reasons why such placement is the most appropriate placement selection and whether the placement continues to be in the best interest of the child.
- .315 For a group home and community treatment facility placement, the case plan shall have a schedule of planned social worker/probation officer monthly visits.
- .316 When a community treatment facility placement is recommended or made, the case plan shall specify the reasons why this placement is the most appropriate placement selection pursuant to Section 31-406.
- .317 For a community treatment facility placement, the case plan shall specify how the continuing stay criteria will be met as specified in Section 1924 of the California Code of Regulations, Title 9, Chapter 11.

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California Code of Regulations, Title 9, Section 1924 states:

"(a) Continuing stay criteria used by a CTF shall include documentation by the CTF psychiatrist of the continuation of admission criteria in addition to written documentation from the appropriate interagency placement committee, or other designated external case manager, such as the probation department, county mental health department, or private insurance utilization review personnel, supporting the decision for continued placement of the child within a CTF. Continuing stay criteria shall be reviewed by a CTF in intervals not to exceed ninety (90) days. Findings shall be entered into each child's facility record.

"(b) Individuals who are special education pupils identified in paragraph (4) of subdivision (c) of Section 56026 of the Education Code and who are placed in a CTF prior to age eighteen pursuant to Chapter 26.5 of the Government Code may continue to receive services through age 21 provided the following conditions are met:

"(1) They continue to satisfy the requirements of subsection (a);

"(2) They have not graduated from high school;

"(3) They sign a consent for treatment and a release of information for CTF staff to communicate with education and county mental health professionals after staff have informed them of their rights as an adult.

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"(4) A CTF obtains an exception from the California Department of Social Services to allow for the continued treatment of the young adult in a CTF pursuant to Section 80024, Title 22, Division 6, Chapter 1 of the California Code of Regulations."

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- .318 For a child for whom the permanency plan is a kinship guardianship, the case plan shall include the following:
- (a) A description of the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted.
 - (b) The reason(s) for any separation of siblings during placement, as also required by Section 31-206.311.
 - (c) The reason(s) why a permanent placement with the prospective kinship guardian through a kinship guardianship assistance arrangement is in the child's best interests, as contained in the assessment documentation required in Section 31-205(h).
 - (d) The ways in which the child meets the eligibility requirements for Kin-GAP, as specified in Manual of Policies and Procedures section 45-600 et seq.
 - (e) The efforts the agency has made to discuss adoption by the child's relative caregiver as a more permanent alternative to legal guardianship; and, in the case of a relative caregiver who has chosen not to pursue adoption, the reason(s) for that decision.
 - (f) The efforts the agency has made to discuss the kinship guardianship assistance arrangement with the child's parent(s), or the reason(s) why such efforts were not made.
- .32 The schedule of planned parent(s)/guardian(s) contacts and visits with the child, in accordance with Section 31-340.
- .33 The schedule of planned visitation of the child by his/her grandparents as specified in Welfare and Institutions Code Section 16507(a).
- .34 The schedule of planned social worker contacts and visits with the child's out-of-home care provider, in accordance with Section 31-330.

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| 31-206 | CASE PLAN DOCUMENTATION (Continued) | 31-206 |
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- .35 The health and education information about the child.
 - .351 This information shall include the following, as available.
 - (a) The names and addresses of the child's health and educational providers.
 - (b) The child's grade level performance.
 - (c) The child's school record.
 - (d) Assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement.
 - (e) A record of the child's immunizations.
 - (f) The child's known medical problems.
 - (g) The child's medications.
 - .352 If any of the required health and education information is not contained in the case plan, the case plan shall document where the information is located.
- .36 A plan which will ensure that the child will receive medical and dental care which places attention on preventive health service through the Child Health and Disability Prevention (CHDP) program, or equivalent preventive health services in accordance with the CHDP program's schedule for periodic health assessment.
 - .361 Each child in placement shall receive a medical and dental examination, preferably prior to, but not later than, 30 calendar days after placement.
 - .362 Arrangements shall be made for necessary treatment.
- .37 For each youth in placement 16 years of age or older, the case plan shall incorporate the Transitional Independent Living Plan (TILP) as specified in Section 31-236.
- .38 For each child for whom a dependency petition has been filed, the recommendation that the right of the parent(s)/guardian(s) to make education decisions be limited by the court pursuant to Welfare and Institutions Code Section 361(a), if applicable.
- .4 The social worker shall document in the child's case file the determination of whether it is in the best interest of the child to refer the child's case to the local child support agency and the basis for this determination in accordance with Section 31-503.
- .5 The case plan shall be considered complete only if all of the elements specified in Section 31-206 have been documented and the social worker's supervisor has signed and dated the case plan.

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| 31-206 | CASE PLAN DOCUMENTATION (Continued) | 31-206 |
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- .51 The social worker may complete a single case plan for the family, provided that the planned services are individually identified for each person named in the case plan.
- .52 If any of the elements specified in Section 31-206 are not immediately available, the social worker shall document in the case plan the following information:
 - .521 The social worker's attempts to obtain the information.
 - .522 The social worker's plan for obtaining the information including the time frame in which the information is expected to be obtained.

NOTE: Authority Cited: Sections 10553, 10554, and 16501.1, Welfare and Institutions Code; and Section 17552, Family Code; and Public Law 109-288. Reference: Sections 224.6, 358.1, 361, 361.31, 361.5, 361.7, 366.1, 366.21, 366.22, 366.25, 706.5, 706.6, 727.3, 4094, 4094.5, 4094.6, 4094.7, 5585.58, 5600.3, 16002, 16501, 16501.1, and 16507, Welfare and Institutions Code; 25 USC 1912(e); 42 USC 675(1) and 677; Sections 7901, 7911, 7911.1, 7912, and 17552, Family Code; and Section 1502, Health and Safety Code; and Public Law 109-288.

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| 31-210 | CASE PLAN TIME FRAMES AND ADMINISTRATIVE REQUIREMENTS FOR CHILDREN FOR WHOM A DEPENDENCY PETITION HAS BEEN FILED | 31-210 |
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- .1 Within 30 calendar days of the in-person investigation (i.e., first face-to-face contact) or initial removal, or by the date of the dispositional hearing, whichever comes first, the social worker shall:
 - .11 Complete and sign the case plan as specified in Section 31-206.
 - .12 Explain the purpose and the content of the case plan to the parent(s)/guardian(s) named in the case plan.
 - .13 Request the parent(s)/guardian(s) to sign the case plan as an indication of case plan approval and willingness to participate in service activities.
 - .131 If unable to obtain the signature of the parent(s)/guardian(s) as specified in Section 31-210.13, the county shall nevertheless provide services, but shall document in the case plan the reason(s) for the failure to obtain the signature of the parent(s)/guardian(s).
 - .14 Provide a copy of the completed case plan to the parent(s)/guardian(s).
 - .15 Obtain the signed and dated written approval of the social worker's supervisor on the case plan or the court report.
 - .151 The social worker's supervisor must sign the case plan or the court report in which the case plan is included prior to submission to the court or within 30 days of the initial removal or initial response, whichever occurs first.

CHAPTER 31-300 SERVICE DELIVERY

31-301 GENERAL REQUIREMENTS FOR SERVICE DELIVERY 31-301

- .1 The individual child's case plan shall be the guiding principle in the provision of child welfare services.
 - .11 The social worker shall ensure that the provision of all services is consistent with the case plan goals specified in the child's case plan.
- .2 The county shall meet the requirements specified in Welfare and Institutions Code Section 16501(c) when purchasing services.
 - .21 Counties shall not contract for case management services and any activities which are mandated by the Division 31 regulations to be performed by the social worker.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 16501.1, Welfare and Institutions Code.

31-305 USE OF VOLUNTEERS 31-305

- .1 The county may use volunteers to supplement professional child welfare services.
 - .11 The county shall ensure that volunteers comply with all statutes and regulations governing the child welfare services program.
 - .12 The county shall not delegate to volunteers any responsibilities and activities that are mandated by statute or regulation to be performed by social workers.
 - .13 The county shall not use volunteers to supplant social workers.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 16501(e), Welfare and Institutions Code.

31-310 SOCIAL WORKER RESPONSIBILITIES FOR SERVICE DELIVERY 31-310

- .1 In providing or arranging for the provision of services identified in the case plan, the social worker shall:
 - .11 Assist each child to understand through the provision of age-appropriate counseling the reason(s) for providing service to handle associated emotional problems.
 - .12 Monitor the child's physical and emotional condition.
 - .13 When a child's family is being provided services in order to maintain the child in the home, take action as necessary to ensure that the child's protective needs continue to be met.
 - .131 In the case of an Indian child, the services to maintain the child in the home must be provided in accordance with the requirement to engage in Active Efforts to provide remedial and rehabilitative services to prevent the breakup of the Indian family as further specified in Section 31-135.23. This standard requires additional efforts on the part of the social worker to work with the child's family and tribe to identify and utilize tribally based resources that may be available to the family, such as tribal and other Indian social service agencies and organizations.
 - .14 Assist the parent(s)/guardian(s) to understand agency procedures, the orders of the courts, if any, or arrangements between the county and other agencies.
 - .15 Provide to the parent(s)/guardian(s) of a child voluntarily receiving services both verbal and written information regarding the possibility that legal action may be taken which could result in removal of the child from the home if parenting problems are not solved and the child remains at risk of abuse, neglect, or exploitation.
 - .16 Provide respite and out-of-home care providers information of any known or suspected dangerous behavior of the child.
 - .161 The social worker shall document in the case record any information provided to the respite and out-of-home care provider regarding the child's known or suspected dangerous behavior, including the following:
 - (a) Date information was provided.
 - (b) Name of person receiving information.
 - (c) Specific facts provided.
 - (d) Affirmation that the person informed was advised that the facts were confidential and that unauthorized disclosure could result in a fine up to \$1,000.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 224.6, 361.2, 361.31, 361.7, 10850, and 16501.1, Welfare and Institutions Code; Section 19, Penal Code; and 25 USC 1912(d).

31-315 SERVICE-FUNDED ACTIVITIES**31-315**

- .1 Service-funded activities shall be available to children and their families in all phases of the Child Welfare Services program as specifically identified in the child's case plan.
 - .11 In the case of an Indian child, social workers shall seek and make available to Indian children and their families service-funded activities that reflect the unique values of the Indian culture and promote the stability and security of Indian children, Indian families and Indian communities. Sources of such services may be found in the Indian child's tribe, Tribal TANF programs, and other Indian organizations. ICWA requires documentation when Active Efforts to provide these services prove unsuccessful.
- .2 Service-funded activities shall be provided as necessary to ensure the protection of the child.
- .3 State funding of service-funded activities shall be limited to the amount allocated to each county by the Department from funds appropriated to the Department in the annual Budget Act for the purpose of funding child welfare services.
 - .31 If service-funded activities are available through other public and private sources, the county shall exhaust those sources prior to authorizing the expenditure of state funds appropriated for the purpose of funding child welfare services.
- .4 The range of service-funded activities shall include, but not be limited to, the following:
 - (a) Case management.
 - (b) Counseling.
 - (c) Emergency shelter care, as specified in Section 31-415.
 - (d) Emergency/Temporary in-home caretakers.
 - (e) Therapeutic day services.
 - (f) Teaching and demonstrating homemakers.
 - (g) Parenting training.
 - (h) Substance abuse testing.
 - (i) Transportation.
 - (j) Respite care.

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| 31-315 | SERVICE-FUNDED ACTIVITIES (Continued) | 31-315 |
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- (1) Respite care services shall be provided only when there is a clear understanding of the time at which the parent(s)/foster parent(s) is expected to return to the home or be prepared to accept the child back into the home or to undertake alternative courses of action to arrange for the child's future care.
- (2) Respite care services shall not exceed 72 hours per session.
- (3) Respite care services shall not be provided for the purpose of routine ongoing child day care.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 16501, and 16501, Welfare and Institutions Code; and 25 USC 1912(a) and (d).

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| 31-320 | SOCIAL WORKER/PROBATION OFFICER CONTACTS WITH THE CHILD | 31-320 |
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- .1 The social worker/probation officer shall arrange for visitation, as determined in the child's case plan, for each child.
- .2 The social worker shall visit the child at least three times in the first 30 calendar days, including the initial in-person response.
 - .21 If the case plan is completed in the first 21 calendar days after the initial removal of the child or in-person response, the social worker shall be permitted to have less frequent visits, up to a minimum of twice in the first 21 calendar days.
- .3 The social worker shall visit each child with an approved case plan who remains in the home at least once each calendar month.
 - .31 The social worker shall be permitted to have less frequent visits, up to a minimum of once every two months, only if all the following criteria are met and written supervisory approval has been obtained:
 - .311 The child has no severe physical or emotional problems caused or aggravated by remaining in his/her own home.
 - .312 The child is visited at least once a week by a family preservation social worker or public health nurse when such persons are providing services pursuant to the case plan; and there is a verbal or written agreement with any such services provider, documented in the case record, that he/she will provide contact reports to the social worker.
 - (a) The social worker shall ensure that verbal or written reports are received and documented in the case record.

31-335 SOCIAL WORKER CONTACTS WITH OTHER SERVICE PROVIDERS 31-335

- .1 The social worker shall have contact with other professionals working with the child, parents/guardians/Indian custodians and the out-of-home care provider including, but not limited to, the following:
 - .11 Public Health Nurse
 - .12 Professional group home staff
 - .13 Physician
 - .14 Therapist
 - .15 Infant specialist
 - .16 Social workers from other counties or states providing services.
 - .17 In the case of an Indian child, social workers must establish and maintain contact with representatives from the child's tribe, other Indian social service agencies, Indian agencies, Indian organizations or individual Indian service providers that assist Indian children and families.

HANDBOOK BEGINS HERE

The purpose of social worker contact with other professionals is to achieve the following objectives:

1. Confer and collaborate toward the most effective, efficient identification and meeting of the child's or the parent's needs.
2. Monitor safety of the child (e.g., daycare center, public health nurse, etc.) and obtain their perception of the child's well-being.
3. Determine whether parent is following through with commitments.
4. Document reasonable efforts.
5. Document "Active Efforts" in cases involving Indian child(ren).

HANDBOOK ENDS HERE

- .2 The social worker shall request written reports from the professionals specified in Section 31-335.1, when their services are being provided to a child, parent/guardian/Indian custodian, or the out-of-home care provider as part of a case plan.

31-335 SOCIAL WORKER CONTACTS WITH OTHER SERVICE PROVIDERS 31-335
(Continued)

HANDBOOK BEGINS HERE

Examples of other service providers that often work with an Indian child and family include: a tribal ICWA advocate, a tribal designated representative, a tribal spiritual leader, a Tribal TANF program, Indian health Services, an Indian education program, or a non-tribal community agency.

HANDBOOK ENDS HERE

- .21 The social worker shall ensure that such reports are received and documented in the case record.
 - .211 If the social worker is unable to obtain a written report, a verbal report shall be obtained and documented in the case record.
 - (a) In addition, in the case of an Indian child, social workers shall document in the case record all reports, written or verbal, obtained from tribal representatives or service providers as specified in Section 31-335.17. It is critical to maintain a clear record of all Active Efforts being provided to the Indian child and his/her family as part of the case plan. See case record requirements in Section 31-075.3(e).

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 361.3, 361.31, 361.7, 16501.1, Welfare and Institutions Code; and 25 USC 1912 and 1913.

31-340 PARENT/GUARDIAN CONTACTS WITH THE CHILD 31-340

- .1 The social worker shall not arrange unsupervised visits, unless the court orders unsupervised visits, if the child has been removed pursuant to a finding of "severe physical abuse" as provided for in Welfare and Institutions Code Section 300(e).
- .2 The social worker shall arrange for visits between child and the parent(s)/guardian(s) named in the case plan no less frequently than once each calendar month for children receiving family reunification services.
 - .21 Exceptions to the visitation requirement up to a minimum of once every six months shall be permitted only in the following circumstances:
 - .211 For court supervised cases, court approval of a specific visitation plan.
 - .212 For voluntary cases, county deputy director approval of a specific visitation plan.
 - .22 If the whereabouts of the child or parent are unknown and the social worker has followed the procedures specified in Section 31-320.53 or Section 31-325.33, the social worker shall not be required to arrange monthly visits between the child and the parent/guardian.
- .3 Renumbered to Section 31-340.21 by Manual Letter No. CWS-94-01, effective 4/8/94.
- .4 Repealed by Manual Letter No. CWS-94-01, effective 4/8/94.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 16501.1(f)(5) and (6), Welfare and Institutions Code.

31-345 GRANDPARENT CONTACTS WITH THE CHILD 31-345

- .1 The social worker shall arrange for visits between the child and grandparents, as determined in the child's case plan, for children receiving court-ordered family reunification services.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 16507(a), Welfare and Institutions Code.

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CHAPTER 31-400 PLACEMENT

31-401 GENERAL REQUIREMENTS FOR PLACEMENT 31-401

- .1 The social worker, other representative of the placing agency or another agency providing services, or other adult with whom the child is familiar, shall be present at the time of placement unless the child is placed out of state.
- .2 At the time of initial placement in foster care of a child who is a dependent of the court, the agency responsible for placement and care shall provide information describing the review process, including the permanency planning hearing, and subsequent court and administrative reviews, to the parent(s)/guardian(s); and to the child, if 10 years of age or older.
- .3 The placement of children in the same home or facility when such children have different legal status shall be subject to the provisions of Welfare and Institutions Code Sections 206 and 16514.
- .4 A foster parent providing out-of-home care to a child pursuant to court orders or providing such services to a voluntarily placed child shall have the legal consent authority specified in Health and Safety Code Section 1530.6.

HANDBOOK BEGINS HERE

- .41 This statute provides that such foster parents may give the same legal consent for such child as would a parent except as specified in Sections 31-401.411 through .413.
 - .411 A foster parent does not have the authority to give legal consent for any of the following:
 - (a) Marriage.
 - (b) Entry into the armed forces.
 - (c) Medical or dental treatment which is not ordinary.
 - (1) Ordinary medical or dental treatment includes but is not limited to the following routine services provided by or under the supervision of licensed practitioners of medicine and dentistry to protect or enhance a child's health:
 - (A) Immunizations.
 - (B) Physical examinations.
 - (C) X-rays.

HANDBOOK CONTINUES

31-401 GENERAL REQUIREMENTS FOR PLACEMENT 31-401
(Continued)

HANDBOOK CONTINUES

- .412 A parent of a voluntarily placed child has the authority to modify or prohibit consent by a foster parent if a written agreement regarding such modification or prohibition exists between the agency and the parent.
- .413 A court of competent jurisdiction has the authority to issue an order limiting foster parent's authority to give such consent.

HANDBOOK ENDS HERE

- .5 For a child placed in-state or out-of-state, the placement shall be in an appropriately licensed or approved facility which accords the child the same personal rights afforded children in California as specified in California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Section 89372 and incorporated in MPP Section 31-445.3.

NOTE: Authority Cited: Sections 16001.9, 10553, and 10554, Welfare and Institutions Code; and Section 1530, Health and Safety Code and Assembly Bill 1695, Section 21. Reference: Sections 309(d), 319(f), 361.2(h), 727, 1601.9, and 11402 (as amended by AB 1695, Chapter 653, Statutes of 2001) and 16501, Welfare and Institutions Code; Sections 1501, 1505, 1530.6, and 1531, Health and Safety Code, and 42 U.S.C. 677.

31-405 SOCIAL WORKER RESPONSIBILITIES FOR PLACEMENT 31-405

- .1 When arranging for a child's placement the social worker shall:
 - .11 Consider the non-custodial parent pursuant to Welfare and Institutions Code Section 361.2.
 - .12 Give preferential consideration for placement of the child to an adult who is a grandparent, aunt, uncle or sibling of the child.
 - .121 In the case of an Indian child Active Efforts shall be made to comply with the ICWA placement preferences and standards as required by Section 31-420.3. The first preference shall be placement with a member of the child's extended family, as defined in Section 1903(2), of 25 U.S.C.
 - .122 As required by Welfare and Institutions Code Section 361.3, a finding that the relative is not willing to adopt or seek guardianship for the child cannot be used as the sole basis for denying placement with a relative.
 - .123 As assessment shall be conducted for the relative(s) and shall include but not be limited to the factors required in Welfare and Institutions Code Section 361.3.

31-405 SOCIAL WORKER RESPONSIBILITIES FOR PLACEMENT
(Continued)

31-405

HANDBOOK BEGINS HERE

The ICWA Section 1903(2) provides that an Indian child's ""extended family member" shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent."

HANDBOOK ENDS HERE

- .13 Consider relatives identified by the social worker as willing and appropriate to care for the child if no non-custodial parent or relative given preferential consideration is available.

- .131 In the case of an Indian child, Active Efforts shall be made to comply with the ICWA placement preferences and standards as required by Section 31-420.3 for foster care placement and shall:
 - (a) Consider the placement preferences of the child's tribe.
 - (b) Consider the Tribally Specified Home when designated as the preference of the Indian child's tribe.
 - (c) If adoption of the child is being considered the social worker shall take into account the ICWA preferences for adoptive placement which, absent good cause to the contrary as determined by the court, are a placement with:
 - (1) A member of the child's extended family
 - (2) Other members of the Indian Tribe or
 - (3) Other Indian families.

- .132 As required by Welfare and Institutions Code Section 361.3, a finding that the relative is not willing to adopt or seek guardianship for the child cannot be used as the sole basis for denying placement with a relative.

- .133 An assessment shall be conducted for the relative(s) and shall include but not be limited to the factors required in Welfare and Institutions Code Section 361.3.

**CHILD WELFARE SERVICES PROGRAM
PLACEMENT**

31-405 (Cont.)

Regulations

31-405 SOCIAL WORKER RESPONSIBILITIES FOR PLACEMENT
(Continued)

31-405

- .14 Consider nonrelative extended family members identified by the social worker/probation officer as willing and appropriate to care for the child if no noncustodial parent, relative given preferential consideration, or relatives identified by the social worker/probation officer as willing and appropriate is available.
 - .141 An assessment shall be conducted for the nonrelative extended family member(s) and shall include but not be limited to the factors required in Welfare and Institutions Code Section 361.3.
- .15 Ensure that the requirements specified in Section 31-445 have been met prior to the placement of the child in the home of a relative or nonrelative extended family member.
- .16 When considering the placement of an Indian child in a Tribally Approved Home, the following requirements shall apply:
 - .161 The social worker must conduct the caregiver background checks on all adults (over age 18) living in the home or persons that may have significant contact with the child unless the tribe has an authorized Tribal Agency that conducts the caregiver background checks pursuant to Welfare and Institutions Code section 10553.12.
 - .162 If the tribe has a Tribal Agency that is approved to receive criminal and child abuse registry information from the California Department of Justice pursuant to Welfare and Institutions Code section 10553.12 the social worker shall secure documentation of the following:
 - (a) The Tribal Agency's certification that it has completed caregiver background checks, pursuant to the standards set forth in Sections 1522 and 1522.1 of the Health and Safety Code, with respect to any prospective foster parent, adoptive parent, or any adult who resides or is employed in the Tribally Approved Home.
 - (1) The certification must provide the address of the home, the names of the individuals in the household that have been cleared, the date of the completion of the clearance for each individual, and if any exemptions were granted.
 - (2) Documentation that the Tribal Agency has agreed to report, within 24 hours to the county social worker responsible for the child placed in the Tribally Approved Home, any notification to the Tribal Agency by the Department of Justice of a subsequent state or federal arrest or disposition notification involving an individual associated with the Tribally Approved Home.
 - (b) The social worker shall conduct the verifications required by Section 31-445.14.

31-405 SOCIAL WORKER RESPONSIBILITIES FOR PLACEMENT 31-405
(Continued)

- .163 Should the social worker have any concerns about the safety of the home, the social worker must consult and collaborate with the tribe to address any concerns.

- .164 The social worker must follow the ICWA placement preferences, which include the Tribally Approved or Tribally Specified Home designated by the child's tribe. Deviation from the preference order may occur only with good cause, as determined by the court. The social worker must provide the court with facts and supporting evidence that justify a request to deviate from the placement preferences and must ask the court for a finding that there is good cause to deviate from the ICWA placement preferences.

- .17 Meet the requirements specified below when placing a child under the age of six in a group home:
 - .171 A child under the age of six shall not be placed in a group home unless one or more of the following conditions are met, and the placement facility meets the licensing standards specified in Title 22, Division 6, Subchapter 2:
 - (a) The placement will provide comprehensive diagnostic assessment to enable long-term decisions about the child's future.
 - (b) The placement meets the child's special treatment needs which can be met by the group home while program planning and testing occur to prepare the child for a less restrictive, permanent placement;
 - (c) The placement enhances and supports the case plan goal of family reunification with parents or kin or for adoption when no other suitable, less restrictive placement is available;
 - (d) The placement is for temporary shelter care and shall not be for more than thirty days and no other, less restrictive placement is available; or
 - (e) The placement will keep a sibling group together until a more suitable, less restrictive placement is found.

31-405 SOCIAL WORKER RESPONSIBILITIES FOR PLACEMENT
(Continued)**31-405**

- (f) Effective 1/1/2000, any child under the age of six shall be placed in a family like setting as defined in Title 22, Section 84201(f)(2). In the event such a setting is unavailable, the county shall request approval from the Department for any alternative placement in excess of 30 days. The Department has the authority to approve these placements if the request is in the best interest of the child and shall in no instance be detrimental to the health and safety of the child. The county welfare director shall submit the request to the Department with substantiating evidence supporting the request and specifying that the child has special needs that render the child extremely difficult to place, and there is no family like setting that can meet the child's special needs. The Department shall provide a written approval or denial of the request within 5 days of receipt of the request.
- .18 Ensure that a child under the age of six placed for temporary shelter care in a county operated or county contracted emergency shelter care facility, shall not be placed in the facility for more than thirty days.
- .181 A county operated or county contracted emergency shelter care facility shall conform to all regulations in Title 22, Division 6, Subchapter 2 except as noted below:
- (a) The facility shall be exempt from the licensing standards specified in Sections 84200(a)(2)(A) through (C).
- (b) For an unlicensed county operated emergency shelter care facility only, the Plan of Operation required by Section 84222 must be kept only on file at the facility and need not be submitted to the Department for approval.
- .19 Assist each child in understanding the reason(s) for placement.
- .20 Arrange for preplacement visitation between the child and the out-of-home care provider, if possible.
- .21 Assist each child to maintain his/her cultural and ethnic identity.
- .22 Monitor the child's physical and emotional condition, and take necessary actions to safeguard the child's growth and development while in placement.

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| 31-405 | SOCIAL WORKER RESPONSIBILITIES FOR PLACEMENT | 31-405 |
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(Continued)

- | .23 Ensure that information regarding available CHDP services is provided to the out-of-home care provider within 30 days of the date of placement.
- | .24 Ensure that the child receives medical and dental care which places attention on preventive health services through the Child Health and Disability Prevention (CHDP) program, or equivalent preventive health services in accordance with the CHDP program's schedule for periodic health assessment.
 - | .241 Each child in placement shall receive a medical and dental examination, preferably prior to, but not later than, 30 calendar days after placement.
- | .25 Make certain that arrangements for, and monitoring of, the child's educational progress while in placement are undertaken.
- | .26 Make arrangements for the out-of-home care provider to have telephone access to a social worker 24 hours a day, seven days a week in case of emergencies involving his/her foster child(ren).
- | .27 Ensure that the out-of-home care provider understands and supports the child's case plan, and is aware of any change(s) thereto.
- | .28 Provide the out-of-home care provider the child's case plan that identifies the child's needs and services.
- | .29 Provide the out-of-home care provider the child's background information as available, including, but not limited to, the following histories:
 - | .291 Educational.
 - | .292 Medical.
 - | .293 Placement.
 - | .294 Family.
 - | .295 Behavioral.

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| 31-405 | SOCIAL WORKER RESPONSIBILITIES FOR PLACEMENT (Continued) | 31-405 |
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- .30 Provide the out-of-home care provider(s) information of any known or suspected dangerous behavior of the child being placed.

- .301 The social worker shall document in the case record any information provided to the out-of-home care provider(s) regarding the child's known or suspected dangerous behavior, including the following:
 - (a) Date information was provided.
 - (b) Name of person receiving information.
 - (c) Specific facts provided.
 - (d) Affirmation that the person informed was advised that the facts were confidential and that unauthorized disclosure could result in a fine up to \$1,000.

- .31 Ensure completion of the documentation necessary to initiate AFDC-FC payments, as appropriate.

- .32 Assist the parents to understand their rights and responsibilities while their child is in foster care.

- .33 Document the reason(s) for the following, when applicable:
 - .331 The child's transfer to another placement location.
 - (a) In the case of an Indian child, in addition to documenting the reasons for the transfer, also document the Active Efforts taken to make the transfer within the order of ICWA placement preferences as required by Section 31-420.3, which shall include making contact with the child's tribe to solicit assistance and support in identifying an appropriate placement for the child.
 - .332 The child's out-of-county or out-of-state placement.

- .34 Develop a discharge plan for any child who:
 - .341 Is under six years of age; and
 - .342 Is leaving a group home placement to return to parent(s), guardian(s), or Indian custodian(s), relative(s) or extended family member(s) or an adoptive family or to a placement in a foster family home.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Assembly Bill 1695, Section 21. Reference: Sections 224.6, 309, 319, 361.2, 361.3, 361.31, 361.4, 361.7, 362.7, 10553.12, 11467.1, and 16501, Welfare and Institutions Code; Sections 1505 and 1530.8, Health and Safety Code; 25 USC 1915 and 1931; and 45 CFR 1355.20.

31-406 SOCIAL WORKER/PROBATION OFFICER RESPONSIBILITIES FOR PLACEMENT IN A COMMUNITY TREATMENT FACILITY 31-406

- .1 In addition to the requirements specified in Section 31-405, when arranging for a child's placement in a community treatment facility, the social worker/probation officer shall obtain the following documentation:
- .11 A written statement, signed by an appropriate licensed mental health professional, certifying that the child is seriously emotionally disturbed; requires a period of containment to participate in and benefit from mental health treatment; that a proposed treatment program is reasonably expected to improve the child's mental disorder; and that the child meets one of the following requirements:
 - .111 The child must have participated in other less restrictive mental health interventions, including, but not limited to, outpatient therapy, family counseling, case management, family preservation efforts, special education classes, or nonpublic schooling.
 - .112 The child is currently placed in a psychiatric or state hospital or a facility outside the state for mental health treatment.
 - .12 A written consent to treatment on behalf of each child in one of the following forms:
 - .121 An application for a child of any age under the jurisdiction of the juvenile court and the court's consent to treatment documented by a copy of the juvenile court ruling making the findings specified in Section 6552 of the Welfare and Institutions Code, together with the child's application for treatment.
 - .122 An application made by the conservator for a child of any age in custody of a conservator documented by the court papers appointing the conservator and delineating the conservator's authorization to place the child in a community treatment facility, as well as any other powers that may be relevant in this setting, along with the conservator's written consent for treatment.
 - .123 An application made by the parent(s) of a child under the age of 14 documented by a written consent to treatment signed by both parents or the admitting parent must submit a court order demonstrating that he or she has sole legal custody and control of the child.
 - .124 An application for a child 14 through 17 years of age not within the jurisdiction of the juvenile court documented by a written consent to treatment signed by both parents or the admitting parent must submit a court order demonstrating that he or she has sole legal custody and control of the child and one of the following:

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| 31-406 | SOCIAL WORKER/PROBATION OFFICER RESPONSIBILITIES FOR PLACEMENT IN A COMMUNITY TREATMENT FACILITY (Continued) | 31-406 |
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- (a) A statement signed by the child and the child's attorney or patients' rights advocate that the child has made a knowing and voluntary waiver of his or her right to a pre-admission hearing after being advised by the attorney or notified by the advocate of his or her right to a pre-admission hearing in accordance with In re Roger S. (1977) 19 Cal. 3d 921. If the child waives his or her right to a pre-admission hearing based on the notification of rights by the advocate, the child's statement must also indicate that he or she has been notified of his or her right to receive the advice of an attorney and has made a knowing and voluntary waiver of that right; or

- (b) The findings and order from a pre-admission hearing conducted in accordance with Section 1923(b)(4)(B) of the California Code of Regulations, Title 9, Chapter 11, pursuant to Section 4094(g) of the Welfare and Institutions Code that specifies all of the following findings:
 - (1) The child suffers from a mental disorder;
 - (2) There is a substantial probability that treatment will significantly improve the child's mental disorder;
 - (3) The proposed placement is the least restrictive setting necessary to achieve the purposes of treatment; and
 - (4) There is no suitable alternative to community treatment facility placement.

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Title 9, California Code of Regulations Section 1923(b)(4)(B) states in pertinent part:

"...A hearing held in accordance with this provision shall include but not be limited to the following:

"1. A neutral and detached fact finder and decision maker who shall have no personal, administrative or financial ties to any parties represented at the hearing nor to the proposed placement facility;

"2. Adequate written notice to the child before the hearing stating the basis for the proposed admission to a CTF;

HANDBOOK CONTINUES

**31-406 SOCIAL WORKER/PROBATION OFFICER RESPONSIBILITIES 31-406
FOR PLACEMENT IN A COMMUNITY TREATMENT FACILITY
(Continued)**

HANDBOOK CONTINUES

"3. An informal setting to minimize the anxiety of both parents and children and to promote cooperation and communication between all parties. All parties shall speak in terms the child understands and shall explain any terminology with which he is unfamiliar;

"4. The stipulation that formal rules of evidence are not applicable and that the standard for decision shall be by a preponderance of the evidence;

"5. The requirement that the hearing shall be closed to anyone other than the child, his parents or parent, the child's attorney, the person conducting the hearing, the professional person presenting evidence in favor of the commitment, and other persons requested to be in attendance by the child or by the child's attorney.

"6. Assistance provided by an attorney to the child who shall be allowed to call witnesses, examine evidence, present evidence on his own behalf and question persons presenting evidence in support of the admission; and

"7. Maintenance of a record of the proceedings adequate to permit meaningful judicial or appellate review which shall be confidential in accordance with Section 5328 of the Welfare and Institutions Code."

HANDBOOK ENDS HERE

.13 A written authorization from the placing county's Interagency Placement Committee certifying that the child is in need of the level of care and services provided by the community treatment facility and to the appropriateness of the following documentation:

.131 The written statement by a licensed mental health professional that demonstrates the child meets the requirements of Section 31-406.11.

.132 Informed consent is given by the child, the child's parents or the parent having sole legal custody and control of the child, or the conservator as specified in Section 31-406.12.

.133 The findings and order by the pre-admission administrative hearing officer specifying that all of the findings specified in Section 31-406.124 have been made for a child 14 through 17 years of age under parental custody who has not waived his or her right to a pre-admission hearing.

**CHILD WELFARE SERVICES PROGRAM
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31-406 (Cont.)

Regulations

**31-406 SOCIAL WORKER/PROBATION OFFICER RESPONSIBILITIES 31-406
FOR PLACEMENT IN A COMMUNITY TREATMENT FACILITY
(Continued)**

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 4094, 4094.5, 4094.6, 4094.7, 5585.58, and 5600.3, Welfare and Institutions Code; Section 1502, Health and Safety Code, and In re Roger S. (1977) 19 Cal. 3d 921.

31-410 TEMPORARY PLACEMENT 31-410

- .1 Temporary placement services shall consist of emergency shelter care and out-of-home respite care.
- .2 Temporary placement services shall be provided when the social worker has considered and/or used in-home services and has determined that the provision or continued provision of these services will not safely maintain the child in his/her own home.
- .3 For temporary placement services involving an Indian child, the social worker shall to the extent possible, collaborate with the child's tribe in an attempt to prevent the removal of the child and to solicit tribal assistance and support in the placement of the child.
 - .31 When selecting a temporary placement for an Indian child, the social worker shall, engage in Active Efforts to place the child in compliance with the ICWA placement preference order required in Section 31-420.3.
- .4 Emergency shelter care services shall be provided as specified in Section 31-415.
- .5 When selecting a temporary placement for the child, the social worker shall adhere to the following priority order:
 - .51 The home of a relative, including the non-custodial parent, in which the child can be safely placed on a temporary basis. Such a determination shall be based on an emergency assessment as defined in Section 31-002(e)(2).
 - .52 A licensed or approved foster family home, licensed small family home, or a licensed foster family agency for placement in a family home which has been certified by the foster family agency, a county-operated emergency shelter care facility.
 - .521 A child under the age of six who is placed in a county operated or county contracted emergency shelter care facility for thirty days or less shall be cared for by a Primary Caregiver as defined in Section 31-002(p)(7).

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Welfare and Institutions Code Section 309(d) provides:

“(d)(1) If an able and willing relative, as defined in Section 319, or an able and willing nonrelative extended family member, as defined in Section 362.7, is available and requests temporary placement of the child pending the detention hearing, the county welfare department shall initiate an assessment of the relative’s or nonrelative extended family member’s suitability, which shall include an in-home inspection to assess the safety of the home and the ability of the relative or nonrelative extended family member to care for the child’s needs, and a consideration of the results of a criminal records check and a check of allegations of prior child abuse or neglect concerning the relative or nonrelative extended family member and other adults in the home. Upon completion of this assessment, the child may be placed in the approved home.

“(2) The standards used to evaluate and grant or deny approval of the home of the relative and of the home of a nonrelative extended family member, as described in Section 362.7, shall be the same standards set forth in regulations for the licensing of foster family homes which prescribe standards of safety and sanitation for the physical plant and standards for basic personal care, supervision, and services provided by the caregiver.

“(3) If a relative or nonrelative extended family member meets all other conditions for approval, except for the receipt of the Federal Bureau of Investigation’s criminal history information for the relative or nonrelative extended family member, and other adults in the home, as indicated, the county welfare department may approve the home and document that approval, if the relative or nonrelative extended family member, and each adult in the home, has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after the approval has been granted, the department determines that the relative or nonrelative extended family member or other adult in the home has a criminal record, the approval may be terminated.”

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- .613 As assessment of the relative's ability to provide temporary care for the child.
- .614 The results of a criminal records check conducted through the California Law Enforcement Telecommunications System (CLETS) on all persons 18 years of age or older residing in the home, pending the receipt of DOJ fingerprint clearance.

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Penal Code Section 16504.5 specifies in pertinent part:

(a) Notwithstanding any other provision of law, pursuant to subdivision (b) of Section 11105 of the Penal Code, a child welfare agency may secure from an appropriate governmental agency the state summary criminal history information, as defined in subdivision (a) of Section 11105 of the Penal Code, through the California Law Enforcement Telecommunications System for the following purposes: ...

(f) Nothing in this section shall preclude a relative or other person living in a relative's home from refuting any of the information obtained by law enforcement if the individual believes the criminal records check revealed erroneous information.

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- .615 The results of a Child Abuse Central Index (CACI) check conducted on all persons 18 years of age and older residing in the home.
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Penal Code Section 11170(c) in summary states that when Child Abuse Central Index information is released by the Department of Justice for the temporary placement of a child, the child protective services agency or court investigator is responsible for notifying, in writing, the person listed in the Child Abuse Central Index that he/she is in the index. The notification shall include the name of the reporting agency and the date of the report.

Penal Code Section 11170(b)(6)(10)(A) in summary requires persons or agencies who receive Child Abuse Central Index information for purposes of licensing, adopting or placing a child to obtain the underlying report from the reporting agency and make their own independent assessment regarding the quality of the evidence disclosed and its sufficiency for making decisions regarding the placement of a child which will be the most appropriate placement and in the best interest of the child.

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- .616 A CACI listing does not necessarily preclude placement with a relative or non-related extended family member. Instead, the relative or non-related extended family member may still be entitled to placement upon consideration of all relevant factors. These factors include but are not limited to the following:
-

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| 31-410 | TEMPORARY PLACEMENT (Continued) | 31-410 |
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- (a) The nature of the substantiated or inconclusive child abuse/neglect report that led to the CACI listing;
- (b) The period of time that has elapsed since the substantiated or inconclusive child abuse/neglect was committed and the number of offenses;
- (c) The circumstances surrounding the commission of the substantiated or inconclusive child abuse/neglect that would demonstrate the likelihood of repetition; and
- (d) Character references.

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A copy of the written assessment may be made available to the appropriate adoption agency in the event that the relative(s) considered is assessed as being able and willing to provide a legally permanent home for the child, so that an abbreviated adoption assessment may be made if adoption becomes the permanency alternative implemented for the child.

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- .7 The temporary placement shall be based on the following needs of the child including, but not limited to:
 - .71 The least restrictive, most family-like environment.
 - .72 The child's age and sex.
 - .73 The child's health and any special needs of diet, medical or psychological care.
 - .74 The possible need for access to or protection from the child's parent(s)/guardian(s).
 - .75 The protective needs of the community.
 - .76 The most appropriate placement selection.
- .8 In addition to those needs specified in Section 31-410.7, the temporary placement of an Indian child shall require Active Efforts to comply with the ICWA placement preference requirements as specified in Section 31-420.3 and shall also be based on the following:
 - .81 The least restrictive setting which most approximates a family-like environment and in which the child's special needs, if any, can be met.
 - .82 The reasonable proximity to the child's home, taking into account any special needs of the child.
 - .83 The prevailing social and cultural standards of the Indian child's tribe and community in which the parent or extended family members reside or maintain social and cultural ties.

31-410 **TEMPORARY PLACEMENT** (Continued) **31-410**

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Assembly Bill 1695, Section 21 (Chapter 653, Statutes of 2001). Reference: Sections 309, 319, 361.2(b), 361.2(g), 361.2(h), 361.2(e)(7), 361.31, 361.7, 362.7, 366, 727, 11402, 11467.1, 16501.1, and 16507.5, Welfare and Institutions Code; Sections 1505 and 1530.8, Health and Safety Code; Section 11170, Penal Code; 25 USC 1901 et. seq. and 42 USC 675(1)(A); and *Gomez v. Saenz* Settlement Agreement and Court Order, Case No: BC284896.

31-415 **EMERGENCY SHELTER CARE** **31-415**

- .1 Provision of emergency shelter care shall not exceed 30 calendar days in any one episode that requires removal of the child except as follows:
 - .11 The county shall be permitted to provide emergency shelter care beyond 30 calendar days only when the case record documents the existence of one of the following circumstances:
 - .111 Emergency shelter care is necessary to meet the continuing protective needs of the child, and there is no other location wherein these protective needs can be met.
 - .112 The child has special needs which render him/her extremely difficult to place, and there is no other location available wherein these special needs can be met.
 - .12 The circumstances permitting extension of emergency shelter care beyond 30 calendar days shall be reviewed and the extension approved in writing by an administrative official higher than a first-level supervisor.
- .2 In no event shall federal and/or state funds appropriated for the purpose of providing any of the child welfare services specified in Division 31 be provided for emergency shelter care beyond 30 calendar days in any one episode except as follows:
 - .21 Each county is permitted to utilize county-only funds to draw down federal financial participation under the Emergency Assistance program, with no state share of cost, in order to provide emergency shelter care beyond 30 calendar days in any one episode if:
 - .211 the child is from a needy family authorized to receive Emergency Assistance funding in accordance with provisions in the Title IV-A State Plan implementing 45 CFR 233.120; and
 - .212 the circumstances specified in Section 31-415.1 are documented in the child's case record.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 16501(a)(3), Welfare and Institutions Code and 45 CFR 233.120.

**CHILD WELFARE SERVICES PROGRAM
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Regulations

31-420 (Cont.)

31-420 FOSTER CARE PLACEMENT

31-420

- .1 The foster care placement shall be based on the following needs of the child including, but not limited to:
 - .11 The least restrictive, most family-like environment.
 - .12 The child's age, sex and cultural background, including racial or ethnic and religious identification.
 - .13 In the case of an Indian child, the child's tribal affiliation and the cultural and traditional practices of the tribe shall be considered.
 - .14 Planned parent/guardian-child contacts during the separation, and the specific actions to be taken by the parent(s)/guardian(s) which will facilitate reunification.
 - .15 Capability, willingness and ability of the caregiver to meet specific needs of the child, to facilitate family reunification, and provide the child's permanency alternative, if necessary.
 - .16 Appropriateness of attempting to maintain the child in his/her current school.
 - .17 The child's health and emotional factors.
 - .18 Anticipated special needs of the child, including but not limited to transportation, diet, medical and/or psychological care, clothing, recreation, and special education.
 - .19 The most appropriate placement selection.
- .2 When selecting a foster care placement for the child, the social worker shall adhere to the following priority order:
 - .21 The home of a relative, including the non-custodial parent, in which the child can be safely placed as assessed according, but not limited to, the requirements specified in Welfare and Institutions Code Section 361.3.
 - .211 Preferential consideration for placement of the child shall be given to a non-custodial parent, then an adult who is a grandparent, aunt, uncle or sibling of the child, except that if the child is an Indian child and the non-custodial parent is not available or appropriate for placement of the child, then the placement requirements of Section 31-420.3 shall apply.
 - (a) As required by Welfare and Institutions Code Section 361.3, a finding that the relative cannot provide legal permanence for the child shall not be used as the sole basis for denying placement with a relative.

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A copy of the written assessment made pursuant to Welfare and Institutions Code Section 361.3 may be made available to the appropriate adoption agency in the event that the relative(s) considered agree to become a permanency planning family, so that an abbreviated adoption assessment may be made if adoption becomes the permanency alternative implemented for the child. See Handbook Sections 31-410.614 and .615.

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- .212 When a child is placed under such circumstances, the foster home shall be exempt from licensure pursuant to Health and Safety Code Section 1505. Prior to placement, the exempt home shall be approved as meeting the requirements specified in Section 31-445 which incorporates California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Foster Family Home.

- .22 A licensed foster family home, licensed small family home, or a licensed foster family agency for placement in a family home which has been certified by the foster family agency.

- .23 A licensed group home.
 - .231 Placements in group homes shall be subject to the following additional requirements:
 - (a) The following conditions shall exist and shall be documented in the case plan:
 - (1) Placement is necessary to meet the treatment needs of the child.
 - (2) The group home has a treatment program that meets such treatment needs.
 - (b) The social worker shall also document in the case record the reason(s) for the following:

 - .232 For a child under the age of six, the social worker shall document in the case plan that the placement meets the requirements specified in Section 31-405.1(b) or in Section 31-405.1(c), whichever is applicable.
 - (a) A statement of the specific needs of the child which cannot be met if the child resides in a less restrictive environment.
 - (b) A description of the types and modalities of treatment program(s) offered and delivered to the child.

31-420 FOSTER CARE PLACEMENT (Continued) 31-420

.24 A licensed community treatment facility.

.241 Placements in community treatment facilities shall be subject to the following additional requirements.

(a) The following conditions shall exist and shall be documented in the case plan:

(1) Placement is necessary to meet the mental health needs of the child.

(2) The community treatment facility has a program that meets such mental health needs.

(b) The social worker/probation officer shall also document in the case record the reason(s) for the following:

(1) A statement of the specific needs of the child which cannot be met if the child resides in a less restrictive environment.

(2) A description of the types and modalities of treatment program(s) offered and delivered to the child.

.3 When selecting a foster care placement for an Indian child the social worker shall engage in Active Efforts to adhere to the following ICWA placement preference requirements:

.31 The prevailing social and cultural standards of the Indian community in which the parent or extended family members reside or maintain social and cultural ties, or the prevailing social and cultural standards of the Indian child's tribe shall be applied.

.311 A determination of the applicable prevailing social and cultural standards may be confirmed by the Indian child's tribe or by the testimony or other documented support of a qualified expert witness who is knowledgeable regarding the social and cultural standards of the Indian child's tribe.

.32 The services of the Indian child's tribe shall be used, when available, in seeking to secure a placement that meets their placement preference order.

.33 The social worker shall select the least restrictive placement that most approximates a family-like environment and in which the child's special needs, if any, may be met. The placement shall be within reasonable proximity to the child's home, taking into account any special needs of the child.

31-420 FOSTER CARE PLACEMENT (Continued)**31-420**

- .331 Preference shall be given to the child's placement with one of the following, in descending order:
- (a) A member of the Indian child's extended family, which shall be defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, bother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.
 - (b) A Tribally Approved Home or a Tribally Specified Home as so designated by the Indian child's tribe.
 - (c) An Indian foster home licensed or approved by an authorized non-Indian licensing authority (a state licensed home; a home certified by a licensed foster family agency).
 - (d) An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.
- .332 A tribe may establish a different preference order, which must be followed so long as the placement is in the least restrictive setting appropriate to the particular needs of the child.
- .333 Deviation from the preference order may occur only with good cause, as determined by the court, which may include but not necessarily be limited to the following:
- (a) The request of the parent or Indian custodian;
 - (b) The request of the Indian child, when of sufficient age;
 - (c) The extraordinary physical or emotional needs of the Indian child as established by a qualified expert witness; or
 - (d) The unavailability of suitable families based on documented Active Efforts to identify families meeting the preference criteria.
- .334 The social worker must provide the court with facts and supporting evidence that justify the request to deviate from the placement preferences and must ask the court for a finding that there is good cause to deviate from the ICWA placement preferences.

**CHILD WELFARE SERVICES PROGRAM
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Regulations

31-425 (Cont.)

31-420 FOSTER CARE PLACEMENT (Continued) 31-420

- .34 When no preferred placement is available, Active Efforts shall be made and documented to place the child with a family committed to enabling the child to have extended family visitation and participation in the cultural and ceremonial events of the child's tribe.
- .35 A record of each placement shall be maintained in perpetuity, including the Active Efforts made to comply with the placement preference order, and the placement history shall be available to the Secretary of the Interior and/or the child's Indian tribe, upon request to the county.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Assembly Bill 1695, Section 21 (Chapter 653, Statutes of 2001). Reference: Sections 309, 319, 361.2, 361.3, 361.31, 361.7, 366, 727, 4094, 4094.5, 4094.6, 4094.7, 5585.58, 5600.3, 11402, 11467.1, 16501.1, and 16507.5, Welfare and Institutions Code; Sections 1502 and 1530.8, Health and Safety Code; Section 275, Civil Code; 25 USC 1915; 42 USC 671(1)(A); and Public Law 105-89 (Adoption and Safe Families Act of 1997).

31-425 PERMANENT PLACEMENT 31-425

- .1 The permanent placement shall be based on the following needs of the child including, but not limited to:
 - .11 The degree of permanency of the available alternatives.
 - .12 The child's age, sex, tribal affiliation and cultural background, including racial or ethnic and religious identification.
 - .13 Capability of a relative, Indian custodian, the out-of-home care provider(s), adoptive parent(s), or guardian(s) to meet specific needs of the child.
 - .131 If the child is not placed with a permanency planning family or if the permanency alternative identified in the case plan fails, preferential consideration for placement of the child shall be given the non-custodial parent, then to an adult who is a grandparent, aunt, uncle or sibling of the child, as required in Welfare and Institutions Code Section 361.3.
 - .132 The home of a relative, including the non-custodial parent, considered for placement shall be assessed according to the requirements in Welfare and Institutions Code Section 361.3.

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See Handbook Sections 31-410.614, .615, and .616(d).

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- .133 In the case of an Indian child, capacity to encourage and protect the child's retention of connections to its tribe.

- .14 Appropriateness of attempting to maintain the child in his/her current school.

- .15 The child's health and emotional factors.

- .16 Anticipated special needs of the child, including but not limited to, transportation, diet, medical and/or psychological care, clothing, recreation, and special education.

- .2 When selecting a permanent placement for the Indian child, the social worker shall adhere to the priority order specified in Sections 31-201.121(c)(3)(A)2 through 7.

- .21 When selecting a permanent placement for an Indian child that may involve the adoption of the child or termination of parental rights, the social worker shall adhere to the adoptive placement preference standards specified in Sections 31-201.121(c)(3)(A)2 through 7.

31-425 PERMANENT PLACEMENT (Continued) 31-425

- .22 When the permanent placement of an Indian child may involve a foster care or guardianship placement the social worker shall adhere to the placement preference standards specified in Section 31-420.3.
- .23 When selecting a permanent placement of the Indian child, the social worker shall consider and consult with the child's tribe regarding Tribal Customary Adoption.

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The Indian child's tribe is the only entity that can elect Tribal Customary Adoption as the permanency option for the child. The tribe may express a preference for a different option. (WIC section 366.26(c)(1)(B)(VI)). No tribe is required to elect Tribal Customary Adoption.

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- .3 When the court, pursuant to Section 366.26 of the Welfare and Institutions Code, orders placement of a child in long-term foster care with a relative, the court may authorize the relative to provide the same legal consent for the child's medical, surgical, and dental care, and education as the custodial parent of the child.
- .4 When it is anticipated that the permanent placement for a child will be a kinship guardianship, the relative caregiver shall be provided with the following information:

31-425 PERMANENT PLACEMENT (Continued)

31-425

- .41 Written information on the availability of the Kin-GAP program, including an explanation of the difference between Kin-GAP and Adoption Assistance Program benefits, and between Kin-GAP and AFDC-FC benefits, as specified in Welfare and Institutions Code sections 11364(e) and 11387(e).

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- .412 Providing the relative caregiver with a copy of both the SOC 369 form and the SOC 369A form, as required in Section 31-425.42, will help counties meet the requirement in Section 31-425.41. Two other resources available to help counties meet the requirement in Section 31-425.41 are: 1) PUB 344, *Giving a Child a Permanent Home—Choices for Relatives*, available in both English (www.cdss.ca.gov/cdssweb/entres/forms/English/pub344.pdf) and Spanish (www.cdss.ca.gov/cdssweb/entres/forms/Spanish/PUB344SP.pdf); and 2) *A Guide to Permanency Options for Youth* (<http://calswec.berkeley.edu/training-resource-permanency-planning-options>).

HANDBOOK ENDS HERE

- .42 Prior to the establishment of a kinship guardianship and the termination of the child's dependency or wardship, a copy of and an explanation of both the SOC 369 form and the SOC 369A form.
- .43 Information on the availability of mental health services through Medi-Cal or other programs, as specified in Welfare and Institutions Code sections 11364(e) and 11387(e).
- .44 Information on access to medically necessary specialty mental health services pursuant to Welfare and Institutions Code section 11376.

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- .441 Welfare and Institutions Code section 11376 provides:

"A foster child who has become the subject of a legal guardianship, who is receiving assistance under the Kin-GAP Program under this article or under Article 4.7 (commencing with Section 11385), including Medi-Cal, and whose foster care court supervision has been terminated, shall be provided medically necessary specialty mental health services by the local mental health plan in the county of residence of his or her legal guardian, pursuant to all of the following:

- (a) The host county mental health plan shall be responsible for submitting the treatment authorization request (TAR) to the mental health plan in the county of origin.

HANDBOOK CONTINUES

31-425 PERMANENT PLACEMENT 31-425
(Continued)

HANDBOOK CONTINUES

- (b) The requesting public or private service provider shall prepare the TAR.
- (c) The county of origin shall retain responsibility for authorization and reauthorization of services utilizing an expedited TAR process."

HANDBOOK ENDS HERE

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 224, 360, 361.2, 361.3, 361.5, 361.31, 366.21, 366.22, 366.24, 366.25, 366.26, 366.27, 11364, 11376, 11387, 16501 and 16501.1, Welfare and Institutions Code; Section 275, Civil Code; and 25 USC 1915.

31-430 ADDITIONAL REQUIREMENTS FOR VOLUNTARY PLACEMENTS 31-430

- .1 In addition to the general requirements specified in other Division 31 regulations, the provisions specified below shall apply to voluntary placements.
- .2 Voluntary placement of a nondependent child shall occur only when there is a written voluntary placement agreement between the county and the parent(s)/guardians(s)/Indian custodian(s) pursuant to the provisions of Sections 16507.2, 16507.3, and 16507.4(b), Welfare and Institutions Code.
 - .21 If the voluntary placement is of an Indian child, the consent to the placement shall be the written consent of a parent or Indian custodian and comply with the following:
 - .211 The consent must be recorded no less than ten days after the birth of the child, in the presence of the judge of the Superior Court on SOC form 155C;
 - .212 The judge must certify that the terms and consequences of the consent were fully explained in detail and that the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language the person understood; and
 - .213 The parent or Indian custodian is informed that consent may be withdrawn for any reason at which time the child must be returned to the parent or Indian custodian.
 - .214 If the child is or may be an Indian child, ICWA notice shall be conducted as set forth in Section 31-125.7.

CHILD WELFARE SERVICES PROGRAM**31-430 (Cont.)****PLACEMENT****Regulations**

31-430 ADDITIONAL REQUIREMENTS FOR VOLUNTARY PLACEMENTS 31-430
(Continued)

- .22 In the situation where the placement may no longer be voluntary, in that there is a determination the child will not be returned to the parent(s)/guardian(s)/Indian custodian(s), the social worker must comply with the requirement to engage in Active Efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and to comply with the ICWA placement preferences.
- .3 The social worker shall:
 - .31 Complete the Voluntary Placement Agreement-Parent/Agency.
 - .32 Provide a written statement informing the parent(s)/guardian(s)/Indian custodian(s) that he/she may be responsible for a share of the family reunification services costs.
 - .33 Assist the parent(s)/guardian(s)/Indian custodian(s) of voluntarily placed children to understand that he/she still retains legal custody of the child even though he/she voluntarily places the child with the agency; and that he/she may limit, by written agreement, the scope of the foster parent's authority to give parental consent.
 - .34 Ensure that the computation of the share of costs is completed pursuant to Welfare and Institutions Code Section 16507.4(a).

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 224.3, 16507.2, 16507.3, and 16507.4, Welfare and Institutions Code; Sections 8606.5 and 8620, Family Code; 25 USC 1903 et. seq.; and California Rules of Court, rule 5.481.

31-435 OUT-OF-COUNTY AND OUT-OF-STATE PLACEMENT REQUIREMENTS 31-435

- .1 Out-of-county placements shall be subject to the additional criteria specified in Section 31-505.
- .2 Out-of-state placements shall be subject to the additional criteria specified in Section 31-510.
 - .21 Prior to placing a child in an out-of-state group home, the county multidisciplinary team shall assess the child's need for an out-of-state group home placement and make a placement recommendation to the court. Upon an order from the court, the county placing agency shall make the placement pursuant to the Interstate Compact on the Placement of Children (Section 31-510).

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 361.2, Welfare and Institutions Code; and Sections 7901, 7911, 7911.1, and 7912, Family Code.

31-440 FOSTER PARENT(S) NOTIFICATION REQUIREMENTS 31-440

- .1 The foster parent(s) shall be given at least seven calendar days' advance written notice of intent to remove a child, and of the right to request a grievance review.
 - .11 The county shall have the authority to include a waiver of the notice requirement specified in Section 31-440.1 in the written placement agreement with the foster parent(s).
 - .111 Waivers shall not exceed six months from the date of placement.
 - .112 Waivers shall be considered exceptions used solely to meet unusual individual needs.
- .2 The county shall not be required to provide the notice specified in Section 31-440.1 if one or more of the following conditions exist:
 - .21 The child is in immediate danger.
 - .22 A signed waiver of notice has been obtained from the foster parent(s), as specified in Section 31-440.11.
 - .23 A court has ordered the child's removal.
 - .24 Adverse licensing or approval actions have occurred that prohibit the foster parent(s) from continuing to provide services.
 - .25 Removal of a voluntarily placed child is made or requested by the child's parent(s)/guardians.
 - .26 The child is removed from an emergency placement.
- .3 For foster parents providing permanent placement services the social worker shall provide the foster parent(s) with written notice explaining the court order that permanent placement services be terminated.
 - .31 The county shall be permitted to use a copy of the court report or modified service plan for purposes of notifying the foster parent(s), if appropriate.
- .4 A relative or nonrelative extended family member whose home has been deemed not to meet the approval standards shall be given notice that their home does not meet approval standards and that they have access to the grievance procedures set forth in MPP Section 31-020, provided they appeal the agency's decision in writing within 5 working days of their receipt of the notice.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Assembly Bill 1695, Section 21. Reference: Section 16501, Welfare and Institutions Code; and Assembly Bill 1695 (Chapter 653, Statutes of 2001).

**31-445 REQUIREMENTS FOR APPROVAL OF RELATIVE AND NONRELATIVE 31-445
EXTENDED FAMILY MEMBER FOSTER FAMILY HOMES**

- .1 Prior to the placement of a child in a relative or nonrelative extended family member home, the child welfare agency shall assess the home and the caregiver to the approval standards by completing the following requirements:
 - .11 An assessment of the prospective caregiver's ability and desire to meet the child's specific needs.
 - .12 An in-home evaluation of the home to verify that the home meets the health and safety standards set out in Title 22, Division 6, Chapter 9.5, Article 3 of the California Code of Regulations and has no safety defects that could pose a hazard to the child; except in the case of an Indian child being placed in a Tribally Specified or Approved Home, the home shall be evaluated as specified in Section 31-405.16.
 - .13 Verification that the proposed caregiver, all adults living in the home and all other non-exempt adults having routine contact with the child have a criminal record clearance or exemption and Child Abuse Index Clearance pursuant to Health and Safety Code Sections 1522 and 1522.1 and Welfare and Institutions Code Section 361.4.

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Approval will be denied if the Child Abuse Central Index Clearance request is denied pursuant to Health and Safety Code Section 1522.1 and Welfare and Institutions Code Section 361.4(c).

Approval will be denied if the Department of Justice fingerprint clearance request is denied and a criminal record exemption is not granted pursuant to Health and Safety Code Sections 1522(d) and 1522(g), and Welfare and Institutions Code Section 361.4(c).

If, subsequent to approval, an FBI rap sheet is received indicating an arrest(s), the approval agency must investigate the underlying facts of the arrest. If, subsequent to approval, an FBI rap sheet is received indicating a conviction, the approval agency must process it as an initial or subsequent conviction as applicable, pursuant to Health and Safety Code Section 1522(d)(4)(D).

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31-445 REQUIREMENTS FOR APPROVAL OF RELATIVE AND NONRELATIVE EXTENDED FAMILY MEMBER FOSTER FAMILY HOMES (Continued) 31-445

- .14 Verification shall be obtained that the following have occurred:
 - .141 The caregiver has been provided an orientation on the child welfare system, the caregiver's role and responsibilities as a foster parent, and a summary of the approval standards for foster family homes.
 - .142 The caregiver has been provided with a summary of the rights of children in out-of-home care and has agreed to provide a copy to the child upon placement.

- .2 Prior to the issuance of an approval document the agency must ensure the caregiver and home meet all the standards in California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3, Caregiver Standards; except that in the case of an Indian child being placed in a Tribally Approved Home, the home shall be evaluated as specified in Section 31-405.16.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Assembly Bill 1695, Section 21 (Chapter 653, Statutes of 2001). Reference: Sections 309, 319, 361.2, 361.3, 361.31, 361.4, 361.5, 362.7, 366, 366.1, 727, 11400, 11401, 11402, 11461, 16504.5, 16507.5 and 16518, Welfare and Institutions Code; Section 11105.2, Penal Code; Sections 1505, 1521.5, 1521.6, 1522, and 1525.5, Health and Safety Code; and 25 USC 1915 and 1931.

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**CHILD WELFARE SERVICES PROGRAM
SPECIAL REQUIREMENTS**

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| 31-510 | INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC) | 31-510 |
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- .1 The Interstate Compact on the Placement of Children (ICPC) shall be applicable between member states under any of the following circumstances:
 - .11 Procedures for placements into boarding or foster family homes or a relative's home, including the home of a parent. When an agency or court in a member state, the sending agency, wishes to place a child, for whom it holds legal custody or placement responsibility, in another member state and in a:
 - .111 Boarding or foster family home.
 - .112 Relative's home, including the home of a parent.
 - .12 When an agency or court in a member state has placed a child in foster care or with a relative in a home within that state and intends to continue placement although the family may move, or has moved, to another member state.
 - .13 When an individual in a member state wishes to place a child who is in his custody in another member state in a:
 - .131 Foster family home.
 - .132 Group Home.
 - .133 Relative's home except as excluded under Article 8 of the Interstate Compact.
 - .134 Childcaring institution.
- .2 The ICPC shall not be applicable between member states under the following circumstances:
 - .21 When a potential foster family makes a routine inquiry or application to an agency in a member state other than the state of the family residence.
 - .211 When the state to which they apply wishes to have the home studied as a resource for additional children needing placement, the family shall be directed to apply through an agency in the state in which they reside.
 - .22 The ICPC shall not be applicable to any placement (sending or receiving) of an Indian child if the placement is made:
 - .221 between an Indian tribe and another Indian tribe; or
 - .222 between a county compact member and a Tribal court that is assuming jurisdiction of the Indian child's case.

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| 31-510 | INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC) (Continued) | 31-510 |
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- .3 Except for children placed by a county social service agency or probation department in an out-of-state group home, the procedures for children leaving California shall be as follows:
 - .31 The California sending agency shall comply with the provisions of Family Code Sections 7900 through 7909.
 - .32 The California sending agency shall complete Sections I, II and III of Form ICPC 100A (Rev. 10/91), Interstate Compact Placement Request, and shall:
 - .321 Retain one copy in agency files.
 - .322 Forward four copies to the appropriate public authority in the receiving state, with two copies of applicable legal documents such as court orders; two copies of summaries of significant information on the child and the prospective foster or relative family; and two copies of a financial and medical services plan, including information on the eligibility of the child for federal Title IV-E assistance.

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- (a) ICPC suggested procedures specify that the receiving state's appropriate public authority should forward copies of the summaries and legal documents to the receiving agency, requiring recommendation on the suitability of the placement plan.
- .33 A home study shall be required for every proposed placement. The California sending agency shall not send a child out of state until it has received, from the appropriate public authority in the receiving state, an ICPC 100A (Rev. 10/91) approved in writing and a home study assessing the following:
 - .331 Amount of supervision available from the receiving agency.
 - .332 Ability of the community or area of proposed placement to meet any special needs of the child.
 - .333 Parental capabilities and problems if the plan involves movement as a family unit.
 - .334 Appropriate information concerning the family with whom placement is to be made.
- .34 ICPC suggested procedures specify that the receiving state's appropriate public authority will notify the California sending agency of approval or disapproval of the plan for the child by completing Section IV of Form ICPC 100A (Rev. 10/91), signing and forwarding two copies of the form with all additional forms and pertinent information to the California sending agency within 30 days from the date it was received in that state.

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| 31-510 | INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC) (Continued) | 31-510 |
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- .35 Prior to placement, the California sending agency shall assure that a financial plan has been developed for the child and that the receiving state has agreed with the plan in writing. Nothing in this section shall be construed as providing entitlement to public social services or aid payments for which the child is not otherwise eligible.

- .36 When the child is placed pursuant to receipt of written approval, the California sending agency shall complete Form ICPC 100B (Rev. 10/91), Interstate Compact Report on Child's Placement Status, and forward two copies to the appropriate public authority in the receiving state.

- .37 The California sending agency shall cooperate with the receiving agency in ongoing case planning for the duration of placement.

- .38 To report change in placement status:
 - .381 The California sending agency shall complete Form ICPC 100B (Rev. 10/91), Interstate Compact Report on Child's Placement Status, and forward two copies to the appropriate public authority in the receiving state under the following circumstances:
 - (a) When there is a change in the placement status of the child.
 - (b) When placement is terminated by adoption decree.
 - (c) When there is any other significant change in plans for the child.

- .39 As specified in 31-075.3(b), the California sending agency shall document all visits in CWS/CMS reported and made to a California child by caseworkers in the receiving state performing visits pursuant to the ICPC.

- .4 Procedures for Out-of-State Group Home Placements and the ICPC. The ICPC shall be applicable between member states under any of the following circumstances:
 - .41 When an agency or court in a member state wishes to place a child, for whom it holds legal custody or placement responsibility in another member state, the California social service agency or probation department shall comply with the provisions of Family Code Sections 7900 through 7912 when placing a child out-of-state and in a:
 - .411 Group home.
 - .412 Childcaring institution.

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- .413 The multidisciplinary teams shall provide an assessment and placement recommendation pursuant to Family Code Sections 7911 and 7911.1 and further described in Section 31-066 of this manual.

- .414 The social worker/probation officer shall make a request to the multidisciplinary team only after in-state alternatives have been considered and are found not to meet the child's needs. The local agency shall document in the case plan the alternatives to out-of-state group home placement that were considered or used and the reasons why they were rejected or did not meet the best interests of the child.

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- .42 The social worker/probation officer shall petition the court for a placement order in concurrence with Welfare and Institutions Code Sections 361.2 and 727.1.

- .43 The California sending agency shall complete Sections I, II and III of the Form ICPC 100A (Rev. 10/91), Interstate Compact Placement Request, and shall:
 - .431 Retain one copy in agency files.

 - .432 Forward to the Interstate Compact Administrator, four copies of the Form ICPC 100A, with three copies of applicable court orders, the case plan, summaries of significant information on the child, the county multidisciplinary team placement recommendation, and the financial and medical services plan, including information of the eligibility of the child for federal Title IV-E assistance.

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- .433 The address for the ICPC Compact Administrator is the California Department of Social Services, Out-of-State Placement Policy Unit at: 744 P Street, M.S. 19-78, Sacramento, CA 95814.

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- .434 Any agreements entered into by the California sending agency and the receiving state agency regarding the provision of services and the respective responsibilities of each state agency shall be approved and signed by the sending and receiving state agencies prior to placement out-of-state in accordance with the Family Code.

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| 31-510 | INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC) (Continued) | 31-510 |
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- (a) When entering into agreements, the provisions of Family Code Section 7911.1(a) shall be met. These agreements shall specify the authority of CDSS to investigate any threat to the health and safety to a child placed in an out-of-state group home. Included is the authority to interview children or staff in private or review the child's file and the requirement that all complaints be reported to the California Compact Administrator.

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- .435 Placements into out-of-state group home facilities can only be made when the facility is certified pursuant to Family Code Sections 7911.1(c) and (i) which state, in part:
 - "(c) By August 18, 1999, CDSS shall certify that the out-of-state group home meets all licensure standards required of group homes operated in California."
 - "(i) Only an out-of-state group home authorized by the Compact Administrator to receive state funds for the placement by a county social services agency or probation department of any child in that out-of-state group home shall be eligible for public funds pending the department's certification."
- .436 Pursuant to Family Code Section 7912(b), the Compact Administrator may temporarily suspend any new placements in an out-of-state group home, or a period not to exceed 100 days, pending the completion of an investigation regarding a threat to the health and safety of California children in care.

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- .44 The California sending agency shall not send a child out-of-state until it has received approval from the California Interstate Compact Administrator and the receiving state ICPC Unit.
- .45 Prior to placement, the California sending agency shall assure that a financial plan has been developed for the child and that the receiving state has agreed with the plan in writing. Nothing in this section shall be construed as providing entitlement to public social services or aid payments for which the child is not otherwise eligible.
- .46 When the Form ICPC 100A (Rev. 10/91) is approved by the receiving state ICPC Administrator, the California sending agency arranges for the physical transfer of the child and, when placement is made, completes four copies of Form ICPC 100B (Rev. 10/91) Interstate Compact Report on Child's Placement Status, and forwards three copies to the CDSS Interstate Compact Administrator.
- .47 The California sending agency shall cooperate with the receiving agency in ongoing case planning for the duration of placement.

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| 31-510 | INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC) (Continued) | 31-510 |
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- .48 If the California sending agency is placing a child into another group home, out-of-state procedures in Section 31-510.4 are to be followed and Form ICPC 100B (Rev. 10/91) Interstate Compact Report on Child's Placement Status, completed and three copies forwarded to the CDSS Interstate Compact Administrator, reporting the change in placement.
- .49 As specified in 31-075(b), the California sending agency shall document in CWS/CMS all visits made to a child by the California agency to the out-of-state group home pursuant to Welfare and Institutions Code Section 16501.1(f)(4) and MPP 31-320.613.
- .5 Procedures for children entering California are as follows:
 - .51 The California receiving agency shall comply with the provisions of Family Code Sections 7900 through 7909.

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- .52 The ICPC suggested procedures require that the sending state's appropriate public authority forward to the California receiving agency:
 - .521 Four copies of the signed Form ICPC 100A (Rev. 10/91).
 - .522 Two copies of applicable legal documents such as court orders, and summaries of significant information on the child to be placed and the prospective foster or relative family.

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- .53 Upon receipt of a Form 100A (Rev. 10/91) from the sending state's appropriate authority, the California receiving agency shall complete a home study with a recommendation on the suitability of the placement plan. A home study shall be required for every proposed placement and shall be made to assess the following:
 - .531 Amount of supervision available from the California receiving agency.
 - .532 Ability of the community or area of proposed placement to meet any special needs of the child.
 - .533 Parental capabilities and problems if the plan involves movement as a family unit.
 - .534 Appropriate information concerning the family with whom placement is to be made.

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| 31-510 | INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC) (Continued) | 31-510 |
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.7 Visits

- .71 A visit is not a placement (see Family Code Section 7901, Article 2(d)) within the meaning of the Interstate Compact on the Placement of Children. Visits and placements shall be distinguished on the basis of purpose, duration and the intention of the person or agency with responsibility for planning for the children as to the child's place of abode.
- .72 The purpose of a visit shall be to provide the child with a social or cultural experience of short duration, such as a stay in camp or with a friend or relative who has not assumed legal responsibility for providing child care services.
- .73 A visit for 24 hours or longer shall involve the provision of some services in the nature of child care by the person or persons with whom the child is staying. The provision of these services shall not, of itself, alter the character of the stay as a visit.
- .74 If the child's stay is intended to be for no longer than 30 days and if the purpose is as described in Section 31-510.72, it will be presumed that the circumstances constitute a visit rather than a placement.

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- .75 A stay or proposed stay of longer than 30 days shall be considered a placement or proposed placement; except a stay that begins and ends within the child's vacation from school, as determined from the academic calendar of the school, may be considered a visit even if longer than thirty days. Such visits may not be extended beyond the school vacation period.
- .76 A visit shall not be extended or renewed beyond 30 days.
- .77 If a stay does not from the outset have an express terminal date, or if its duration is not clear from the circumstances, it shall be considered a placement or proposed placement and not a visit.
- .78 If a request for a home study or agency supervision is made by the person or agency which sends or proposes to send a child on a visit, such request shall conclusively establish that the intent of the stay or proposed stay is a placement and not a visit.
- .8 Required forms include the following:
 - .81 Interstate Compact Placement Request, Form ICPC 100A (Rev. 10/91).
 - .82 Interstate Compact Report on Child's Placement Status, Form ICPC 100B (Rev. 10/91).
- .9 The California receiving agency shall be responsible for complying with the visit requirements as specified in applicable provisions of the ICPC for all out-of-state children placed in California pursuant to the ICPC.
 - .91 The California receiving agency shall provide the sending state with written supervision reports in compliance with the ICPC.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 7900, 7901, 7906, 7907.3, 7911, 7911.1 and 7912, Family Code; Sections 361.2, 361.21, 727.1, 16501.1 and 16516.5, Welfare and Institutions Code; and Association of Administrators of the Interstate Compact on the Placement of Children Regulation No. 11.

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| 31-525 | INDEPENDENT LIVING PROGRAM (ILP) (Continued) | 31-525 |
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- .1 The purpose of the Independent Living Program (ILP) is to provide program services and activities as described in the TILP to assist eligible youth to live independently.
- .2 The county social worker/probation officer shall determine ILP eligibility concurrently with the development of the initial TILP and redetermine ILP eligibility with each TILP update.
- .3 Youth shall be eligible for ILP services up to their 21st birthday provided one of the following criteria is met:
 - .31 Were/are in foster care at any time from their 16th to their 19th birthday. This does not include youth placed in detention facilities, locked facilities, forestry camps, training schools, facilities that are primarily for the detention of youth who are adjudicated delinquent, medical and psychiatric facilities, voluntary placements, wraparound program participants, youth placed pursuant to an individualized education program and guardianship placements in which the youth is not a dependent or ward of the court.
 - .32 Were/are 16 years of age up to 18 years of age and in receipt of the Kinship Guardianship Assistance Payment Program (KinGap) assistance.
 - .33 Eligible youth younger than 16 years of age may participate in an ILP for younger youth if the county of jurisdiction has a county plan that includes such a program. Youth younger than 16 years of age placed outside their county of jurisdiction may participate in an ILP for younger youth only with prior approval of the county of jurisdiction. Participation in an ILP for younger youth prior to age 16 does not qualify a youth for ILP eligibility.
- .4 ILP participation is deferred only if the youth is physically or mentally unable to benefit from the ILP as determined by the youth's primary care physician or health/mental health care professional or if the youth declines to participate in the ILP. If ILP participation is deferred, the social worker/probation officer on behalf of youth in foster care or the ILP coordinator on behalf of KinGap youth and other eligible youth shall document, in the TILP the reason(s) for the deferment. A redetermination of deferment shall be made at least every six months and documented in the TILP.
- .5 Eligibility for the ILP shall not be determined by outside agencies such as contractors or vendors.

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- .51 Welfare and Institutions Code Section 16501(c) specifies:

“Counties shall not contract for needs assessment, client eligibility determination, or any other activity as specified by regulations of the State Department of Social Services, except as specifically authorized in Section 16100.”

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| 31-525 | INDEPENDENT LIVING PROGRAM (ILP) (Continued) | 31-525 |
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- .6 County social workers/probation officers shall:
 - .61 Ensure that foster care/probation youth are given appropriate information about and the opportunity to participate in the ILP.
 - .62 Ensure that ILP participation is not used as a punishment or reward.
 - .63 Use the TILP document available on the Child Welfare Services Case Management Services (CWS/CMS).
 - .64 Work with foster care/probation youth to ensure that they have access to ILP core services as described in Section 31-525.8.
 - .65 Collaborate with the youth, ILP Coordinators, care providers, and other service providers to ensure the development and implementation of TILP goals, services and activities, including addressing transportation needs. Counties shall encourage providers to participate in the development of the TILP.
 - .66 Prior to the youth's emancipation, ensure that ILP services are provided as identified in the TILP.
 - .67 Defer ILP enrollment only if the youth is physically or mentally unable to benefit from the program as determined by the youth's primary care physician or health/mental health care professional or if the youth declines to participate. A redetermination of deferment shall be made at least every six months and be documented in the TILP.
 - .68 Provide, as applicable, the necessary records, referrals and documentation to ensure that timely and appropriate ILP service provision has met the goals and services of the TILP as described in Section 31-236.

- .7 County ILP Coordinators shall:
 - .71 Ensure that every eligible youth participating in ILP up to age 21 has a TILP.
 - .72 Collaborate with the youth, social workers/probation officers, care providers and other service providers to ensure the provision of core services and activities so that the goals outlined in the youth's TILP are achieved.

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| 31-525 | INDEPENDENT LIVING PROGRAM (ILP) (Continued) | 31-525 |
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- .73 Ensure that participation in ILP is not used as a punishment or reward.
- .74 Not duplicate or replace services that are available through other agencies and programs.
- .75 Recruit, offer and provide individualized ILP services to eligible youth including emancipated youth, legally emancipated minors, and KinGap youth.
- .76 Ensure that benefits, services and treatment are fair and equitable to all eligible youth.
- .77 Utilize the Emancipated Youth Stipend to provide assistance to emancipated youth who are eligible for the ILP pursuant to Welfare and Institutions Code Section 10609.3.

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- .771 Welfare and Institutions Code Sections 10609.3(e)(1) and (2) state:
 - "(1) Effective July 1, 2000, the department, in consultation with the Independent Living Program Strategic Planning Committee, shall develop and implement a stipend to supplement and not supplant the Independent Living Program. To qualify for this stipend, a youth shall be otherwise eligible for the Independent Living Program, have been emancipated from foster care to live on his or her own, and be approved by the county. The stipend may provide for, but not be limited to, assisting the youth with the following independent living needs:
 - (A) Bus passes.
 - (B) Housing rental deposits and fees.
 - (C) Housing utility deposits and fees.
 - (D) Work-related equipment and supplies.
 - (E) Training-related equipment and supplies.
 - (F) Education-related equipment and supplies."
 - "(2) Notwithstanding Section 10101, the state shall pay 100 percent of the nonfederal costs associated with the stipend program in paragraph (1), subject to the availability of funding provided in the annual Budget Act."

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