

June 16, 2021

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 21-62

The purpose of this All County Letter (ACL) is to provide guidance regarding Assembly Bill (AB) 748 (Chapter 682, Statutes of 2019), which allows for a dispositional hearing to occur shortly after a youth's 18th birthday if certain requirements are met, potentially allowing entry to Extended Foster Care (EFC).



KIM JOHNSON
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



GAVIN NEWSOM
GOVERNOR

June 16, 2021

ALL COUNTY LETTER NO. 21-62

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL INDEPENDENT LIVING PROGRAM MANAGERS
ALL INDEPENDENT LIVING PROGRAM COORDINATORS
ALL FOSTER CARE MANAGERS
ALL TITLE IV-E AGREEMENT TRIBES
ALL TRANSITIONAL HOUSING COORDINATORS
ALL ADMINISTRATIVE LAW JUDGES

SUBJECT: DISPOSITIONAL HEARING AFTER 18TH BIRTHDAY FOR
EXTENDED FOSTER CARE ELIGIBILITY

REFERENCE: [ASSEMBLY BILL \(AB\) 12 \(CHAPTER 559, STATUTES OF 2010\), AB 748 \(CHAPTER 682, STATUTES OF 2019\);](#) WELFARE AND INSTITUTION CODE (WIC) SECTIONS [300, 317, 319, 355, 358 and 361](#); CALIFORNIA RULES OF COURT (CRC) SECTION 5.697; ALL COUNTY LETTERS (ACLs) [11-61, 11-69, 11-77, 12-12, ALL COUNTY INFORMATIONAL NOTICE \(ACIN\) I-21-18](#)

PURPOSE

The purpose of this All County Letter (ACL) is to provide guidance and clarification to all child welfare agencies, probation departments, Indian tribes, consortium of tribes or tribal organizations regarding the allowance for a dispositional hearing to occur shortly after a youth's 18th birthday, in limited circumstances, as permitted by the addition of subdivision (d) to WIC section [358](#)¹ by [AB 748](#), effective January 1, 2020.

BACKGROUND

Extended foster care (EFC) is a voluntary program that provides eligible youth, who would otherwise be aging out of foster care, the opportunity to voluntarily continue to receive housing placement and supportive services as a nonminor dependent through age 20, as they transition to adulthood. Prior to the amendments to section [358](#) by [AB](#)

¹ All statutory references are to the Welfare and Institutions Code.

[748](#), most youth who came into temporary custody in the child welfare system shortly before 18 were ineligible for EFC, because they turned 18 years of age prior to fully being adjudicated a dependent of the Court.

POST-18 DISPOSITIONAL HEARING

WIC section [358](#) was amended by [AB 748](#) to allow for a child welfare dispositional hearing to occur for a youth who has turned 18 if the following criteria is met:

- The youth was found to be a minor described in [section 300](#) at a jurisdictional hearing pursuant to [section 355](#), prior to their 18th birthday, and was continuously detained pursuant to [section 319, subdivision \(c\)](#).
- The youth must provide informed consent for the dispositional hearing.

For purposes of completing the dispositional hearing, the youth is permitted to retain counsel appointed pursuant to section [317](#), unless relieved, despite the youth turning 18. The dispositional hearing shall be held within 30 days of the section [355](#) jurisdictional hearing. At the dispositional hearing, the court shall determine that there is clear and convincing evidence that the young adult met a circumstance described under section [361](#), subdivision (c), immediately prior to turning 18 years of age.

Informed consent is met in the manner described in [CRC section 5.697](#), and use of form JV-463, *Nonminor's Informed Consent to Hold Disposition Hearing*. If the youth did not provide informed consent for the dispositional proceeding, or if the court finds that the youth does not meet the criteria to be declared a dependent, the court shall vacate the orders made under [section 319, subdivision \(c\)](#), and neither dependency nor general jurisdiction shall be retained, and no later entry or reentry to EFC is permitted.

If the 18 year old is adjudicated as a dependent at the dispositional hearing, for the purposes of the meeting the definition of "nonminor dependent" in [WIC § 11400, subdivision \(v\)](#), the youth shall be treated as though they attained 18 years of age while under an order of foster care placement. If the youth consents to the dispositional hearing and is made a dependent, but then does not choose to remain in extended foster care, the court shall set a hearing for termination of jurisdiction pursuant to section [391](#) within 30 days. If jurisdiction is terminated pursuant to section [391](#), the nonminor may petition the court to resume dependency jurisdiction at any time before attaining 21 years of age.

CASE MANAGER GUIDANCE

The court procedures and guidance for use when a disposition hearing for a nonminor is set under WIC section [358](#), subdivision (d) are available in [CRC section 5.697](#). Following service of Form [JV-463](#), if the youth (or guardian ad litem, if appointed by the court for this purpose) did not provide informed consent for the dispositional proceeding,

or if the court found that the youth did not meet the criteria to be declared a dependent, the court shall vacate the temporary detention and placement orders. The young adult should be informed that they will not be eligible for re-entry into EFC, but the case manager is encouraged to work with the 18-year-old to help identify natural supports and refer them to available community resources.

For those 18-year-old youth who were made a dependent pursuant to section [358](#), subdivision (d), EFC provides a safe placement for youth while providing supportive services to help them transition home, attain permanency through adoption, or transition to successful adulthood. The population addressed by section [358](#), subdivision (d), consists of youth with adult decision-making authority; however, the initial goal shall remain the same as for any in foster care, as described in the case planning requirements of section [16501.1](#): "Reasonable services shall be offered or provided to make it possible for a child to return to a safe home environment," unless the court determines that reunification services shall not be provided. If reunification services are not ordered or are subsequently terminated, reasonable efforts shall be made by the case manager to work with the youth to timely develop a plan to help achieve permanency. Case managers should also link these young adults to community resources.

Youth are an active participant in the development of the case plan. This includes an in-depth conversation to explore other natural connections that may provide permanency or a lifelong connection, as part of the convening of the child and family team as described in section [16501.1](#). Collaboration with the natural supports may also assist and result in positive outcomes in terms of placement and housing decisions, identifying key services and supports needed. The case manager should maintain a role as a supportive person for the youth and encourage the youth to advocate for themselves and have their opinions and perspective be considered throughout the life of the case.

If you have any questions or need additional guidance regarding the information in this letter, contact the Transition Age Youth (TAY) Policy Unit at (916) 651-7465 or at TAYPolicy@dss.ca.gov

Sincerely,

Original Document Signed By

ANGIE SCHWARTZ
Deputy Director
Children and Family Services Division