

August 24, 2022

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**EXECUTIVE SUMMARY**

**ALL COUNTY LETTER NO. 22-36**

The purpose of this All County Letter is to provide information regarding Assembly Bill 1055 (2021) and the educational rights expansion for tribal youth and youth who are the subjects of voluntary placement agreements.



KIM JOHNSON  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
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GAVIN NEWSOM  
GOVERNOR

August 24, 2022

ALL COUNTY LETTER NO. 22-36

TO: ALL COUNTY CHILD WELFARE DIRECTORS  
ALL COUNTY CHILD WELFARE PROGRAM DIRECTORS  
ALL CHIEF PROBATION OFFICERS  
ALL FEDERALLY RECOGNIZED TRIBES  
ALL FOSTER CARE PROGRAM MANAGERS  
ALL FOSTER FAMILY AGENCY DIRECTORS  
ALL GROUP HOME DIRECTORS  
ALL ADOPTION REGIONAL AND FIELD OFFICES  
ALL JUDICIAL COUNCIL STAFF

SUBJECT: **EDUCATIONAL RIGHTS OF TRIBAL YOUTH AND YOUTH IN  
VOLUNTARY PLACEMENTS**

REFERENCE: [ASSEMBLY BILL \(AB\) 1055](#) (CHAPTER 287, STATUTES OF 2021); [ASSEMBLY BILL \(AB\) 1962](#) (CHAPTER 748, STATUTES OF 2018); [ASSEMBLY BILL \(AB\) 181](#) (CHAPTER 52, STATUTES OF 2022); WELFARE AND INSTITUTIONS CODE (WIC) SECTIONS [11400](#), [300](#), [309](#), [602](#); ALL COUNTY LETTERS (ACL) [ACL 16-75](#) & [ACL 21-69](#)

**PURPOSE**

The purpose of this All County Letter (ACL) is to provide county child welfare agencies, probation departments, and other interested parties with information regarding the educational changes for youth under tribal court jurisdiction and voluntarily placed children prompted by [Assembly Bill \(AB\) 1055](#) (Chapter 287, Statutes of 2021). This bill eliminates the requirement that a dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization (“tribal court”) also meet the state law criteria for adjudicating a child dependent. This bill expands the definition of “students in foster care” to include any child who is the subject of a voluntary placement agreement, as defined in [WIC Section 11400\(p\)](#).

## **BACKGROUND**

[Assembly Bill \(AB\) 1962](#) (Chapter 748, Statutes of 2018) amended the definition of foster youth for purposes of the local control funding formula (LCFF) by including students in foster care under the placement and care responsibility of an Indian tribe provided that the child would also meet one of the descriptions in [WIC Section 300](#) for when a child may be adjudged a dependent child of the juvenile court. The prior definition included non-minors who had been designated as foster youth by an Indian tribe, consortium of tribes, or tribal organization, but excluded students under 18 years of age.

The requirement that students also meet one of the dependency descriptions in preexisting [WIC Section 300](#) was intended to provide consistency in the identification of foster youth for purposes of LCFF entitlements. However, tribal legal definitions or criteria for taking a child into tribal custody differ in some cases from those in WIC Section 300, so foster children in tribal court dependency cases were being undercounted. The statutory amendment was intended to ensure that the attendance of students in foster care who were dependents of a court of an Indian tribe would generate the same additional LCFF funding as other students in foster care who were dependents of a county juvenile court. This change applies to dependents of both Title IV-E and non-Title IV-E tribes' courts.

## **STATUTORY CHANGES**

Assembly Bill 1055 amends the definition of “foster youth” in Education Code (EDC) Section [48853.5](#)(a) as follows:

- A dependent child of a tribal court who is the subject of a petition filed in a tribal court pursuant to the tribal court’s jurisdiction in accordance with the tribe’s law.
- A child who is the subject of a voluntary placement agreement between the county welfare department, probation department, or Indian tribe and the child’s parent or guardian pursuant to subdivision (p) of [Section 11400](#) of the WIC.

The EDC Section 48853.5(a) also includes all of the following categories in the definition of “foster youth”:

- A child who has been removed from their home pursuant to Section [309](#) of the Welfare and Institutions Code.
- A child who is the subject of a petition filed under Section [300](#) or [602](#) of the Welfare and Institutions Code, whether or not the child has been removed from their home.

By adding tribal foster youth and youth subject to voluntary placement agreements to the existing definitions of “foster youth” and “pupils in foster care,” this bill extends to

these youth the existing educational rights that are afforded all foster youth under the jurisdiction of a county juvenile court. For more information about LCFF and how to enter foster youth data correctly into CWS/CMS, see [Foster Youth Data Shared with California Department of Education ACL 16-75](#).

## **PRACTICE IMPLICATIONS**

It is always important for social workers and probation officers to engage with youth, families, and education rights holders to ensure the youth's educational needs are being met. It is also critical that youth understand their educational rights. With the definition of students in foster care expanding to include children in voluntary placements, it is recommended that caseworkers inform the youth and families with Voluntary Placement Agreements of these changes to the law. This population of youth being served by child welfare and probation agencies now have additional rights that need to be considered during the development of their education plans and should be discussed in Child and Family Team meetings as well as during other contacts with youth on their caseloads and their caregivers. Also, when the child or youth is an Indian child<sup>1</sup> it is important that the social worker or probation officer collaborate and consult with the tribal representative in their efforts to meet the educational needs of the child or youth. In addition to having information about the child or youth that may not be available to the social worker or probation officer, the tribal representative may know of additional tribal or federal educational programs or services available to the child or youth.

## **EDUCATION RIGHTS & SERVICES**

Assembly Bill 1055 extends education rights and services to youth who are the subject of voluntary placement agreements, and dependent youth under the jurisdiction of the tribal courts, requiring that these youths be provided the same academic resources, services, and extracurricular and enrichment activities that are available to all other foster pupils, including but not limited to:

- The right to immediate enrollment and education in the least restrictive environment;
- The right to remain in the school of origin during specified proceedings;
- Prompt academic record transfers;
- Protections against grade reductions due to changes in residential placement or court-ordered activities;

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<sup>1</sup> [WIC Section 224.1](#) As used in this division, unless the context requires otherwise, the terms "Indian," "Indian child," "Indian custodian," "Indian tribe," "reservation," and "tribal court" shall be defined as provided in Section 1903 of the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

- Recognition of partial credit;
- The right to remain in school for a fifth year to complete the local education agency's graduation requirements;
- Fee waivers for certain exams; and
- Procedural protections for disciplinary hearings.

If you have any questions or need additional guidance regarding the information in this letter, please contact the Permanency Services and Support Unit at (916) 657-1858 or by emailing [FosterCareEducation@dss.ca.gov](mailto:FosterCareEducation@dss.ca.gov).

Sincerely,

***Original Document Signed By***

ANGIE SCHWARTZ  
Deputy Director  
Children and Family Services Division