

September 7, 2022

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 22-72

The purpose of this All County Letter is to address the process for filing a petition for exit and reentry to Extended Foster Care as described in Assembly Bill 640, through the addition of Welfare and Institutions Code section 388, subdivision (f).



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

September 7, 2022

ALL COUNTY LETTER NO. 22-72

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CALWORKS PROGRAM SPECIALISTS
ALL COUNTY CONSORTIUM PROJECT MANAGERS
ALL COUNTY CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL COUNTY ELIGIBILITY SUPERVISORS
ALL COUNTY FOSTER CARE MANAGERS
ALL CHIEF PROBATION OFFICERS
ALL TITLE IV-E AGREEMENT TRIBES
ALL FEDERALLY RECOGNIZED TRIBES
COUNTY WELFARE DIRECTORS ASSOCIATION
CHIEF PROBATION OFFICERS CALIFORNIA

SUBJECT: PETITION TO PERMIT NEW DETERMINATION OF ELIGIBILITY FOR FEDERAL FINANCIAL PARTICIPATION IN EXTENDED FOSTER CARE ([ASSEMBLY BILL 640](#))

REFERENCE: [ASSEMBLY BILL \(AB\) 640 \(CHAPTER 622, STATUTES OF 2021\)](#); [AB 592 \(CHAPTER 702, STATUTES OF 2021\)](#); [WELFARE AND INSTITUTIONS CODE \(WIC\) SECTIONS 388](#); [WIC 10553.1](#), AND [WIC16000.6](#), [WIC 11400](#) and [WIC 11401](#); All County Letter [\(ACL\) 22-16](#)

The purpose of this All County Letter (ACL) is to address changes to law in AB 640, which describes a process for filing a petition for exit and reentry to extended foster care (EFC) and its implementation for county child welfare departments, juvenile probation departments and IV-E tribes. For the purpose of this letter, IV-E tribes with an agreement pursuant to WIC 10553.1 or 16000.6 are the only “tribal placing agency(ies) with authority to make these determinations for federal financial participation (FFP) in EFC.”

BACKGROUND

Through the passage of AB 640, which added WIC section 388, subdivision (f), a county child welfare, probation, or tribal placing agency may, with the consent of the non-minor dependent (NMD) who was non-federally eligible prior to turning 18 years old, file a petition with the juvenile court to dismiss dependency or transition jurisdiction and immediately resume that jurisdiction in order to establish the NMD's eligibility for FFP. The juvenile court may grant this petition without the need for a hearing. The law requires the county child welfare, probation, or tribal placing agency filing a petition to ensure the NMD does not experience a break in services or supports before, during, or after the filing or granting of the petition.

Prior to initiating this process, the eligibility worker and social worker need to conduct a review in order to ensure that all other federal eligibility requirements will be met when making a new IV-E eligibility determination after the petition is granted. A county child welfare, probation, or tribal placing agency shall not file a petition of dismissal of dependency if any of the following circumstances are present:

1. The NMD is categorically ineligible for federal Aid to Families with Dependent Children--Foster Care (AFDC-FC) benefits.
2. The NMD is a member of a tribe or eligible for enrollment in a tribe and would likely become ineligible for services or supports, or have benefits disrupted if the county sought to establish eligibility for FFP.

PETITIONS

The purpose of filing the petition described below is to initiate a new determination of eligibility for federal IV-E foster care funding following a court-ordered dismissal of dependency or transition jurisdiction. This is not a redetermination because, in these situations, the court has dismissed dependency or transition jurisdiction prior to a reentry to EFC (For more information related to redeterminations, please review ACL 22-16).

Once the above determinations have been made and the placing agency determines it is appropriate to proceed, the following steps must occur:

1. Establish consent of the NMD to file the petition. Until a separate WIC section 388 (f) consent form is developed, the placing agency may use the existing SOC 163 form to establish a voluntary reentry agreement as described in amended WIC section 11400 (z), to document "... the nonminor dependent's agreement to participate in the filing of a petition pursuant to subdivision (f) of Section 388."

2. Submit a petition to dismiss dependency or transition jurisdiction using the applicable forms and rules of court established by the Judicial Council of California. The finalized forms will be ready for use by September 1, 2022. (It is anticipated the final form will be titled: Petition and Order to Exit and Reenter Jurisdiction Nonminor Dependent — (form JV-469).)
 - This petition must include a notice to the NMD and the NMD's attorney.
3. When granting the petition, the court shall maintain general jurisdiction over the NMD and immediately resume dependency or transition jurisdiction.
 - The court may grant the petition without a hearing.
4. Once the petition is granted, a new agreement for extended foster care (SOC 162) and [FC 2 NM](#) shall be jointly signed by the agency responsible for the NMD's placement and care and the NMD.
5. Placement change forms are not required unless there is a placement change.

Please note that if the NMD had an established transitional independent living plan prior to the granting of the petition, the agency does not need to prepare a new one. Placing agencies shall follow orders of the court and conduct a new eligibility determination as required following an NMD reentry to foster care.

It is important for the county child welfare, probation, or tribal placing agency to ensure the NMD does not experience any break in services or supports before, during, or after the filing or granting of a petition.

AMENDED DEFINITION

The Legislature also amended the definition of voluntary reentry agreement in WIC section 11400, subdivision (z) to describe the consent and Transitional Independent Living Plan process related to a Section 388 (f) petition. The amendments, made via Statutes 2021, chapter 702, section 3.5, are italicized and underlined below:

- "Voluntary reentry agreement" means a written voluntary agreement between a former dependent child or ward or a former nonminor dependent, who has had juvenile court jurisdiction terminated pursuant to Section 391, 452, or 607.2, *or between a nonminor dependent who has not signed a voluntary reentry agreement after attaining 18 years of age and for whom a petition will be filed pursuant to subdivision (f) of Section 388,* and the county welfare or probation department or tribal placing entity that documents the nonminor's desire and willingness to reenter foster care, to be placed in a supervised setting under the placement and care responsibility of the placing agency, the nonminor's desire,

willingness, and ability to immediately participate in one or more of the conditions of paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, the nonminor's agreement to work collaboratively with the placing agency to develop their transitional independent living case plan within 60 days of reentry, if not previously completed, the nonminor's agreement to report any changes of circumstances relevant to continued eligibility for foster care payments, and (1) the nonminor's agreement to participate in the filing of a petition for juvenile court jurisdiction as a nonminor dependent pursuant to subdivision (e) of Section 388 within 15 judicial days of the signing of the agreement and the placing agency's efforts and supportive services to assist the nonminor in the reentry process, (2) if the nonminor meets the definition of a nonminor former dependent or ward, as described in subdivision (aa), the nonminor's agreement to return to the care and support of their former juvenile court-appointed guardian and meet the eligibility criteria for AFDC-FC pursuant to subdivision (e) of Section 11405, or (3) the nonminor dependent's agreement to participate in the filing of a petition pursuant to subdivision (f) of Section 388.

If you have any questions or need additional guidance regarding the information in this letter, please contact the Funding and Eligibility Unit of the Resource Family and Eligibility Support Bureau in the Family Permanency and Support Services Branch of the Children and Families Services Division, at FC-KGEligibility@dss.ca.gov.

Sincerely,

Original Document Signed By

ANGIE SCHWARTZ
Deputy Director
Children and Family Services Division