
**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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Welfare and Institutions Code Section 361.49 states:

Regardless of his or her age, a child shall be deemed to have entered foster care on the earlier of the date of the jurisdictional hearing held pursuant to Section 356 or the date that is 60 days after the date on which the child was initially removed from the physical custody of his or her parent or guardian.

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CHILD WELFARE SERVICES PROGRAM**31-101 (Cont.)****INTAKE****Regulations**

31-101 GENERAL
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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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(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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- .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.

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

- .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;

31-105 EMERGENCY RESPONSE PROTOCOL **31-105**
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- (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.

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- (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).

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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.

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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.

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- .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.

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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**
(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.

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- .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 **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>.

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- .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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31-125 (Cont.)

31-125 INVESTIGATION REQUIREMENTS 31-125
(Continued)

- .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.

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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).

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- .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.

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- .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 (Continued)	31-125
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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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- .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
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Regulations

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.

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.

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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.

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.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)

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- (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 **31-135**
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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.

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- .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.

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

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- .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** **31-135**
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- (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."

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31-135 **AUTHORITY FOR REMOVAL OF CHILD** **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.

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- .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.

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- .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.

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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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NOTE: 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.

31-137 TRANSITIONAL CARE PRIOR TO PLACEMENT

31-137

- .1 For purposes of this section, "transitional care" shall mean the duties and responsibilities of the county child welfare services and probation agencies to a child residing in the State of California during:
 - .11 The time period between removal of a child pursuant to Section 31-135 and the detention of that child pursuant to Welfare and Institutions Code Section 309(d)(1) or placement of that child with a licensed or approved care provider, or;
 - .12 The time period between removal of a child from an approved or licensed care provider or a person providing care pursuant to Welfare and Institutions Code Section 309(d)(1) and the placement of that child with another licensed or approved care provider or a person providing care pursuant to Welfare and Institutions Code Section 309(d)(1).
- .2 During the period a child is in transitional care, the county child welfare agency or probation agency shall:
 - .21 Provide or ensure the provision of adequate care and supervision to the child, which shall include the following:
 - .211 Food that meets the nutritional, medical, and age-appropriate needs of the child;
 - .212 Supervision by trained staff in a sufficient number to address the needs of each child and to ensure the safety and wellbeing of each child in crisis;
 - .213 Age-appropriate activities;
 - .214 Ensuring the child's medical needs are met.
 - .215 Protecting the personal rights of each child as appropriate and consistent with Welfare and Institutions Code Section 16001.9, considering the transitional care setting.

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Efforts shall be made to protect and adhere to the personal rights of each child to the extent possible in a transitional care setting. For example, while it may be difficult to meet a child's educational right to attend their school of origin, other temporary educational needs can be reasonably fulfilled. Such activities may include supporting communication with the child's school, accommodating for completion of the child's homework, or facilitating the child's attendance to Individual Education Plan (IEP) meetings and other significant school events.

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- .22 Ensure that all adults having contact with children obtain a criminal record clearance consistent with California Health and Safety Code Section 1522.
- .23 Ensure that a check of the Child Abuse Central Index has occurred for all adults who have contact with children in transitional care consistent with California Health and Safety Code Section 1522.1.
- .24 Provide a physical environment that is safe, clean, sanitary and in good repair at all times, including, but not limited to:
 - .241 Adhering to local zoning, safety and building ordinances;
 - .242 Provision of sleeping arrangements that address the physical and age-appropriate privacy needs of each child;
 - .243 Provision of working bathrooms and bathing areas that address the physical and age-appropriate privacy needs of each child.
- .3 The length of time a child may remain in transitional care shall be less than 24 hours.
 - .31 The child's caseworker and/or any worker involved in placement of the child shall enter the child's removal time, removal date, and location in the child's case file within 12 hours of removal.
 - .32 In addition to the documentation required in .31, the child's caseworker and/or any worker involved in the placement of the child shall specifically identify any location where the child stayed for a period of 24 hours or more during the period of transitional care, and information explaining why the child was not placed in an approved or licensed home or facility during this time period.
 - .33 The social worker or probation officer shall adhere to the responsibilities for placement as specified in Section 31-405.

CHILD WELFARE SERVICES PROGRAM

Regulations

INTAKE

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31-137 TRANSITIONAL CARE PRIOR TO PLACEMENT 31-137
(continued)

- .4 The California Department of Social Services, Children and Family Services Division shall:
- .41 Investigate complaints related to alleged violations of this section, which may include;
- .411 Conducting inspections of the buildings and grounds where children in transitional care are located and to conduct interviews of individuals relating to the provisions of transitional care;
- .412 Developing a corrective action plan or review a corrective action plan developed by the county child welfare services agency or probation agency to correct identified deficiencies in the fulfillment of the requirements of this section;
- .413 Monitoring county child welfare services agency and probation agency compliance with the approved corrective action plan.
- .42 Taking action as appropriate pursuant to Welfare and Institutions Code Section 10605 to ensure compliance with these regulations.
- .5 The CFSD may delegate its authority to conduct the activities listed in .41 to the California Department of Social Services, Community Care Licensing Division, to ensure prompt complaint response and deficiency correction.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 1522 and 1522.1, Health and Safety Code, and Sections 309(d)(1), 16001.9, 10605, and 16501(a), Welfare and Institutions Code.

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**CHILD WELFARE SERVICES PROGRAM
ASSESSMENT AND CASE PLAN**

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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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(Continued)

- (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.

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(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.

31-201 ASSESSMENT AND CASE PLANNING PROCESS 31-201
(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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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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(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.
- .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.

31-205	ASSESSMENT DOCUMENTATION	31-205
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(Continued)

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.

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.
 - (a) In the case of parents/guardians who are incarcerated, institutionalized or participating in a court-ordered residential substance abuse treatment program, the social worker shall include a description of the services available within said institution to achieve their case plan objectives and goals.
 - (b) The social worker shall describe any barriers regarding services due to the parent(s)/legal guardian(s) confined status to complete all objectives of the case plan, including visitation/contact with the child.
 - (c) The social worker shall describe any barriers to accepting or completing services because of the minor or nonminor dependent status of the parent.
 - .212 In the case of an Indian child, the case plan shall include the concurrent option of Tribal Customary Adoption.
 - .213 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.
 - .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.

31-206	CASE PLAN DOCUMENTATION (Continued)	31-206
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- .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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Welfare and Institutions Code Section 366.24 states:

- (b) Whenever an assessment is ordered pursuant to Section 361.5, 366.21, 366.22, 366.25, or 366.26 for Indian children, the assessment shall address the option of tribal customary adoption.

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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 (Continued)	31-206
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- .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.

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.

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, 366.24, 366.25, 706.5, 706.6, 727.3, 4094, 4094.5, 4094.6, 4094.7, 5585.58, 5600.3, 16002, 16501, 16501.1, 16507 and 16508.1, Welfare and Institutions Code; 25 USC 1912(e); 42 USC 675(1) and 677; Sections 7901, 7911, 7911.1, 7912, and 17552, Family Code; Section 1502, Health and Safety Code; and Public Law 109-288.

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.

31-210	CASE PLAN TIME FRAMES AND ADMINISTRATIVE REQUIREMENTS FOR CHILDREN FOR WHOM A DEPENDENCY PETITION HAS BEEN FILED (Continued)	31-210
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- (a) In so signing, the signature of the social worker's supervisor shall be deemed to have certified that the case plan was reviewed by the supervisor and the case plan goal and the planned services for meeting that goal are appropriate.
- .16 Begin implementation of the case plan in accordance with the time frames and schedules specified in the case plan.
- .2 The case plan shall be included in the court report and submitted to the court at least 48 hours prior to the dispositional hearing specified in Welfare and Institutions Code Section 358.
- .21 If the dispositional hearing specified in Welfare and Institutions Code Section 358 is not convened within six months of the date the case plan was completed, the case plan update must be included in the court report and submitted to the court at least 48 hours prior to the dispositional hearing.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 358(b), 361, 16501(a), and 16501.1(d) and (e), Welfare and Institutions Code.

31-215	CASE PLAN TIME FRAMES AND ADMINISTRATIVE REQUIREMENTS FOR CHILDREN AND FAMILIES WHO WILL VOLUNTARILY RECEIVE SERVICES	31-215
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- .1 Within 30 calendar days of the in-person investigation (i.e., first face-to-face contact), the social worker shall:
 - .11 Complete and sign the case plan as specified in Section 31-205.
 - .12 Explain the purpose and content of the case plan to the parent(s)/guardian(s) named in the case plan.
 - .13 Request the parent(s)/guardian(s) named in the case plan to sign the case plan.
 - .131 If the parent(s)/guardian(s) refuses to sign the case plan for voluntary services, voluntary services shall not be provided.
 - .14 For children who will voluntarily receive out-of-home care, request the parent(s)/guardian(s) named in the case plan to sign the placement agreement parent/agency.

31-215	CASE PLAN TIME FRAMES AND ADMINISTRATIVE REQUIREMENTS FOR CHILDREN AND FAMILIES WHO WILL VOLUNTARILY RECEIVE SERVICES (Continued)	31-215
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- .141 If the parent(s)/guardian(s) named in the case plan refuses to sign the placement agreement parent/agency, voluntary out-of-home services shall not be provided.
- .15 Obtain the signed and dated written approval of the social worker's supervisor on the case plan.
- .151 In so signing, the signature of the social worker's supervisor shall be deemed to have certified that the case plan was reviewed by the supervisor and the case plan goal and the planned services for meeting that goal are appropriate.
- .16 Provide a copy of the completed case plan to the parent(s)/guardian(s).

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 16501.1(f)(7) and 16507, Welfare and Institutions Code.

31-220	CASE PLAN UPDATES	31-220
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- .1 The case plan shall be updated as service and permanency needs of the child and family dictate and to assure achievement of service and permanency objectives.

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

31-225	CASE PLAN UPDATE DOCUMENTATION	31-225
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- .1 Each case plan update shall document the following information:
 - .11 Any changes in the information contained in the case plan.
 - .12 Specific information about the current condition of the child and family.
 - .13 If the parent(s)/guardian(s) is part of the case plan, a description of the degree of compliance by the parent(s)/guardian(s) with the written case plan, including the following:
 - .131 Progress in working toward achievement of each case plan objective.

31-225 CASE PLAN UPDATE DOCUMENTATION (Continued) 31-225

- (a) If the case plan's goal is family reunification, documentation shall also include the efforts to achieve the permanency alternative if family reunification fails.
- .132 Cooperation in keeping appointments.
- .133 For children in out-of-home placement, visiting patterns of the parent(s)/guardian(s) with the child, including, but not limited to, the following:
 - (a) Frequency of visits.
 - (b) Initiation by parent(s)/guardian(s).
 - (c) Cooperation in keeping appointments.
 - (d) Interaction with child and/or foster parent(s).
- .14 The case plan adequacy and continued appropriateness.
 - .141 The need, if any, for a change in the case plan.
- .15 The joint assessment conducted pursuant to Welfare and Institutions Code Sections 361.5(g), 366.21(i), or 366.22(b), when that assessment has been ordered by the court.
- .16 Any subsequent discussions with the parent(s) regarding the advisement made pursuant to Section 31-201.133(b) that he/she may request adoption counseling and services.
- .17 For a child for whom the permanency plan is a kinship guardianship, all of the information required in Sections 31-206.317(a) through (f).
- .2 The case plan update shall be considered complete only if all of the elements specified in Section 31-225 have been documented and the social worker's supervisor has signed and dated the case plan update.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 361 and 361.5 (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997) and 16501.1(d), Welfare and Institutions Code; and 42 U.S.C. Section 675(1).

31-230 CASE PLAN UPDATE TIME FRAMES AND ADMINISTRATIVE REQUIREMENTS FOR COURT-ORDERED CASES

31-230

.1 The social worker shall:

- .11 Complete a case plan update as often as the service needs of the child and family dictate and as is necessary in order to assure achievement of service objectives. At a minimum, the social worker shall complete a case plan update in conjunction with each status review hearing, but no less often than once every six months.

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- .111 Status review hearings are conducted pursuant to Sections 366.21, 366.22, 366.25, or 366.26 of the Welfare and Institutions Code.

The dispositional hearing held pursuant to Welfare and Institutions Code Section 358 may be considered the initial status review hearing if it is held within the first six months of a child's original placement date as defined in Welfare and Institutions Code Section 11400(p) and makes all of the findings required by Welfare and Institutions Code Section 366(a).

- .112 Welfare and Institutions Code Section 11400(p) specifies as follows:

"Original placement date" means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

- .113 Welfare and Institutions Code Sections 366(a) and (c) specify as follows:

"(a) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the hearing described in Section 366.25 or 366.26 is completed. The court shall determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, "and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and shall project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship."

"(c) If the child has been placed out-of-state, each review described in subdivision (a), and reviews conducted pursuant to Sections 366.3 and 16503 shall also address whether the out-of-state placement continues to be the most appropriate placement selection and in the best interest of the child."

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- .114 Welfare and Institutions Code Section 361.21 specifies as follows:
- "(a) The court shall not order the placement of a minor in an out-of-state group home, unless the court finds, in its order of placement, that both of the following conditions have been met:
 - "(1) The out-of-state group home is licensed or certified for the placement of minors by an agency of the state in which the minor will be placed.
 - "(2) The out-of-state group home meets the requirements of Section 7911.1 of the Family Code.
 - "(b) At least every six months, the court shall review each placement made pursuant to subdivision (a) in order to determine compliance with that subdivision.
 - "(c) A county shall not be entitled to receive or expend any public funds for the placement of a minor in an out-of-state group home unless the requirements of subdivisions (a) and (b) are met."

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- .12 Obtain the signed and dated written approval of the social worker's supervisor on either the case plan update or the court report prior to submission of the case plan update and the court report to the court.
- .13 Provide a copy of the completed case plan update to the parent(s)/guardian(s) and discuss the case progress, problems, and case plan status.
- .14 Submit the case plan update and the court report to the court at least 10 calendar days prior to the scheduled hearing.
 - .141 Updates to the case plan made during the period between review hearings which do not change the case plan goal may be approved by the social worker's supervisor and need not be approved by the court. The social worker's supervisor shall document approval of the updated case plan by signing and dating the case plan update.
- .15 Request the parent(s)/guardian(s) named in the case plan to sign the case plan update as an indication of plan approval and willingness to participate in service activities.

31-230	CASE PLAN UPDATE TIME FRAMES AND ADMINISTRATIVE REQUIREMENTS FOR COURT-ORDERED CASES (Continued)	31-230
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- .151 If unable to obtain the signature of the parent(s)/guardian(s) as specified in Section 31-230.15, the county shall nevertheless provide services. However, the social worker shall document in the case plan the reason(s) for the failure to obtain the signature of the parent(s)/guardian(s).

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 361.21, 366(a), and 16501.1(d) and (f), Welfare and Institutions Code and Sections 7901, 7911 and 7911.1, Family Code.

31-235	CASE PLAN UPDATE TIME FRAMES AND ADMINISTRATIVE REQUIREMENTS FOR VOLUNTARY CASES	31-235
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- .1 The social worker shall:
 - .11 Complete a case plan update as often as the service needs of the child and family dictate and as is necessary in order to assure achievement of service objectives, but no less frequently than once each six months.
 - .12 Provide a copy of the completed case plan update to the parent(s)/guardian(s) and discuss the case progress, problems, and case plan status.
 - .13 Request the parent(s)/guardian(s) named in the case plan update to sign the case plan update as an indication of plan approval and willingness to participate in service activities.
 - .131 If the parent(s)/guardian(s) named in the case plan update refuses to sign the case plan update for voluntary services, voluntary services shall not be provided.
 - .14 Obtain signed and dated written approval of the social worker's supervisor on the case plan update.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 16501.1(f)(7) and 16507, Welfare and Institutions Code.

31-236 **TRANSITIONAL INDEPENDENT LIVING PLAN (TILP)** **31-236**

- (a) For each youth in placement, 15½ and not yet 16 years of age, the social worker/probation officer of the county of jurisdiction shall insure that the youth shall actively participate in the development of the TILP. The TILP describes the youth's current level of functioning; emancipation goals identified in Section 31-236.6; the progress towards achieving the TILP goals; the programs and services needed, including, but not limited to, those provided by the ILP; and identifies the individuals assisting the youth. The TILP shall be reviewed, updated, approved, and signed by the social worker/probation officer and the youth every six months.

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- (1) While foster care providers, ILP staff, and others may administer living skills assessments tests to foster/probation youth, the social worker/probation officer is responsible for utilizing the test results in the TILP to reflect the needs and goals of the youth.

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- (2) For youth who entered foster care after their 16th birthday, the TILP shall be completed prior to the Disposition Hearing.
- (3) The social worker/probation officer shall include the TILP in the youth's case plan when submitting documents to the court for determining services at the disposition hearing and each status review hearing prior to the first permanency planning hearing and each permanency planning hearing pursuant to Welfare and Institutions Code Sections 358(b), 358.1, 366.3, 706.5, 727.2(e)(5), and 727.3.
- (4) Counties may develop a TILP for youth younger than 16 years of age in accordance with a county plan.
- (5) The TILP shall be incorporated into the case plan specified in Section 31-206.37.
- (6) The social worker/probation officer shall use a nationally recognized or departmentally-approved assessment tool to assist the youth in developing the TILP.

31-236	TRANSITIONAL INDEPENDENT LIVING PLAN (TILP) (Continued)	31-236
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(A) The following are some examples of nationally recognized assessment tools:

Daniel Memorial Institute Independent Living Assessment for Life Skills, Ansel-Casey Skills Assessment, Phillip Roy Life Skills Curriculum, Community College Foundation Life Skills Assessment Pre and Post Questionnaires.

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(7) When a goal contained within the TILP is employment, the TILP must state that the purpose of employment is to enable the youth to gain knowledge of work skills, and the responsibilities of maintaining employment pursuant to Welfare and Institutions Code Section 11008.15.

(b) The social worker/probation officer shall update the TILP at least annually or more often if requested by the youth to reflect progress, changes in the youth's level of functioning and modifications made to emancipation goals, programs and services identified in the TILP.

(c) The social worker/probation officer shall ensure that the initial TILP and each update is signed and dated by the social worker/probation officer and the youth.

(d) If the youth refuses to cooperate with the social worker/probation officer in the development of the TILP, the social worker/probation officer shall complete the TILP, including the needs and services. This shall include documentation explaining the refusal and reasonable efforts made to obtain the youth's cooperation. In any instance where the youth refuses services, the social worker/probation officer shall again offer services to the youth at least once every six months.

(e) The social worker/probation officer of the county of jurisdiction shall provide a copy of each completed TILP and its updates to the youth and others who are essential to the completion of the TILP goals.

(f) The social worker/probation officer shall use the TILP document available on the Child Welfare Services/ Case Management System (CWS/CMS).

(g) The social worker/probation officer of the county of jurisdiction shall inform youth about the county ILP and encourage them to participate.

(1) When the appropriate ILP services have been identified, participation in ILP must be documented in the youth's TILP.

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- (2) The social worker/probation officer of the county of jurisdiction shall, prior to youth's emancipation, ensure that ILP services are provided as identified in the TILP.
- (3) The social worker/probation officer of the county of jurisdiction shall defer ILP enrollment only if the youth is physically or mentally unable to benefit from the program or if the youth declines to participate. Physical or mental deferments shall be determined by the youth's primary care physician or health/mental health care professional. A redetermination of deferment shall be made at least every six months and documented in the TILP.
- (4) The social worker/probation officer of the county of jurisdiction shall provide, as applicable, the necessary records, referrals and documentation to ensure timely and appropriate ILP service provision and meet the goals and services of the TILP as described in Section 31-236.
- (5) The social worker/probation officer of the county of jurisdiction shall ensure that transportation is provided and/or accessible to enable youth to participate in the ILP.
- (6) The social worker/probation officer of the county of jurisdiction shall work with the youth to ensure that they have access to ILP core services.
- (7) The social worker/probation officer shall ensure that participation in ILP is not used as a punishment or reward.
- (h) The social worker/probation officer shall assist the youth to complete the emancipation preparation goals described in the TILP by collaborating with public and private agencies/persons including but not limited to schools, colleges, Workforce Investment Act programs and services, the Department of Education, Mental Health, ILP coordinators, care providers, the Student Aid Commission, the Employment Development Department and One-Stop Career Centers.
- (i) The services described in the TILP shall assist, the youth, as applicable, to attain the following emancipation preparation goals:
 - (1) Education attainment including: literacy skills, high school diploma/GED.
 - (2) Management, budget and financial management skills; knowledge of landlord/tenant issues, self-advocacy skills, and credit issues; and knowledge of preventive health activities (including substance abuse prevention, smoking avoidance, nutrition education, pregnancy prevention).

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(Continued)**31-236**

- (3) Development of a mentoring relationship with a responsible adult.
- (4) Knowledge of how to acquire and receipt of important documents, including but not limited to:
 - (A) A certified birth certificate;
 - (B) A social security card;
 - (C) An identification card and/or driver's license;
 - (D) A proof of citizenship or residency status (for undocumented aliens, preparation and/or receipt of a completed application for Special Immigrant Juvenile Status (SIJ) pursuant to 8 C.F.R. Section 204.11 or other naturalization process);
 - (E) Death certificate(s) of parent or parents;
 - (F) A proof of county dependency status for education aid applications;
 - (G) School records;
 - (H) Immunization records;
 - (I) Medical records;
 - (J) A Health and Education Passport;
 - (K) A work permit;
 - (L) Written information concerning the child's dependency case including: information about the child's family history; the child's placement history;
 - (M) The names, phone numbers and addresses of siblings and other relatives;
 - (N) The procedures for inspecting the documents described under Welfare and Institutions Code Section 827; and
 - (O) Information regarding jurisdiction termination hearings and the potential consequences of a failure to attend.
 - (P) Information and assistance for completing applications to seal juvenile records pursuant to Welfare and Institutions Code Section 781, as needed.

31-236	TRANSITIONAL INDEPENDENT LIVING PLAN (TILP) (Continued)	31-236
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- (5) Receipt of mental health counseling, as appropriate.
- (6) Establishment and maintenance of a bank account including, but not limited to an emancipation savings account.
- (7) College, vocational training program, or other educational or employment program admittance information, prior to emancipation.
- (8) Gainful employment through the provision of information about and participation in employment and training services provided through Workforce Investment Act programs and services, Employment Development Department (EDD) One-Stop Career Centers, and registered at an EDD One-Stop Career Center, including but not limited to: career exploration, work readiness skills, vocational training, employment experience, job placement and retention.
- (9) Receipt/completion of applications for sources of post-emancipation financial support including but not limited to emancipation stipends, Supplemental Security Income (SSI), Transitional Assistance to Needy Families (TANF), Supportive Transitional Emancipation Program (STEP), Transitional Housing Program-Plus (THP-Plus), scholarships and grants, as applicable.
- (10) Referral to appropriate county adult social services agencies, as needed, prior to emancipation.
- (11) Completion of Medi-Cal reapplication, prior to emancipation.
- (12) Acquisition of safe and affordable housing, upon emancipation.
- (j) The social worker/probation officer shall enable the youth to obtain documents identified in the TILP that are necessary to complete the emancipation goals during the first six months of the youth's 16th year or as soon thereafter as is reasonable.
- (k) Social workers/probation officers shall, prior to each withdrawal from the emancipation savings account, include in the TILP their written determination and authorization for the youth to withdraw cash savings necessary for emancipation purposes pursuant to Welfare and Institutions Code Sections 11008.15 and 11155.5.
- (l) If applicable, savings and incentive payments shall be documented in the TILP, and the requirements of Welfare and Institutions Code Sections 11008.15 and 11155.5 shall apply.

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(Continued)**31-236**

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- (1) Welfare and Institutions Code Section 11008.15 specifies:

"Notwithstanding Sections 11008.14 and 11267, the department shall exercise the options of disregarding earned income of a dependent child derived from participation in the Job Training Partnership Act of 1982 (P.L. 97-300), a dependent child who is a full-time student pursuant to the Deficit Reduction Act of 1984 (P.L. 97-369), and a dependent child 16 years of age or older who is a participant in the Independent Living Program pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272), providing the child's Independent Living Program case plan states that the purpose of the employment is to enable the child to gain knowledge of needed work skills, work habits, and the responsibilities of maintaining employment."

- (2) Welfare and Institutions Code Section 11155.5 specifies:

"(a) In addition to the personal property permitted by other provisions of this part, a child declared a ward or dependent child of the juvenile court, who is age 16 years or older, may retain resources with a combined value of not more than ten thousand dollars (\$10,000), consistent with Section 472(a) of the federal Social Security Act (42 U.S.C. Sec. 672(a)) as contained in the federal Foster Care Independence Act of 1999 (P.L. 106-169) and the child's transitional independent living plan. Any cash savings shall be the child's own money and shall be deposited by the child or on behalf of the child in any bank or savings and loan institution whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. The cash savings shall be for the child's use for purposes directly related to emancipation pursuant to Part 6 (commencing with Section 7000) of Division 11 of the Family Code.

"(b) The withdrawal of the savings shall require the written approval of the child's probation officer or social worker and shall be directly related to the goal of emancipation."

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- (m) The social worker/probation officer shall consider placement of eligible youth in the THPP subject to the requirements set forth in Welfare and Institutions Code Section 16522(a).

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- (1) Welfare and Institutions Code Section 16522(a) states, in part:
- (a) "The State Department of Social Services shall adopt regulation to govern transitional housing placement programs that provide supervised housing services to persons at least 16 years of age and not more than 18 years of age, except as provided in section 11403, and who meet all of the following conditions;
- "(1) Meet the requirements of section 11401.
- "(2) Are in out-of-home placement under the supervision of the county department of social service or the county probation department.
- "(3) Are participating in, or have successfully completed an independent living program.
- "(4) Any minor at least 16 years of age and not more than 18 years of age, except as provided in Section 11403, who is eligible for AFDC-Foster Care benefits under this chapter and who meets the requirements in Section 16522.2."

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 358, 366, 391, 706.6, 727.2, 727.3, 10553, 10554, 11155.5, 11403.2, 16501, 16501.2, 16501.5, 16522, et seq., and 18987.6, Welfare and Institutions Code and 42 U.S.C. Sections 672(a), 675, and 677.

31-237 90-DAY TRANSITION PLAN**31-237**

- (a) Within 90 days of a youth's 18th birthday, or emancipation from foster care between the ages of 18 and 21 for a nonminor dependent, the county social worker/probation officer must provide the youth or nonminor dependent with assistance and support in developing a transition plan for independence (this is referred to as the 90-Day Transition Plan).
- (1) A 90-Day Transition Plan is not necessary if a youth leaves foster care more than 90 days prior to the youth's 18th birthday.
 - (2) A plan shall only be initiated before the youth or nonminor dependent exits foster care.
- (b) A 90-Day Transition Plan shall be developed for all youth and nonminor dependents who are receiving either or both of the following:
- (1) Foster care maintenance payments.
 - (2) Benefits or services from the Independent Living Program (ILP).
- (c) Other adult representatives for the youth or nonminor dependent, as appropriate, may participate in the development of the youth or nonminor dependent's 90 Day Transition Plan. Such representatives may include, but are not limited to:
- (1) Caregivers or former caregivers.
 - (2) Family members.
 - (3) Non-related extended family members.
 - (4) Court Appointed Special Advocates (CASAs).
 - (5) Mentors.
 - (6) Former case workers.
 - (7) ILP Coordinators.
 - (8) Therapists.
 - (9) Peer Advocates.
- (d) At a minimum, the 90-Day Transition Plan shall include the elements required in Welfare and Institutions Code Section 16501.1(g)(16)(B).

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- (1) Welfare and Institutions Code Section 16501.1(g)(16)(B) states:
- (A) "A caseworker or other appropriate agency staff or probation officer and other representatives of the participant, as appropriate, shall provide the youth or nonminor dependent with assistance and support in developing the written 90-day transition plan, that is personalized at the direction of the child, information as detailed as the participant elects that shall include, but not be limited to, options regarding":
 - (i) Housing.
 - (ii) Health insurance.
 - (iii) Education.
 - (iv) Local opportunities for mentors and continuing support services.
 - (v) Workforce supports and employment services.
 - (vi) A Power of Attorney for health care.
 - (vii) Information regarding the advance health care directive form.
 - (B) "Information provided regarding health insurance options shall include verification that the eligible youth or nonminor is enrolled in Medi-Cal and a description of the steps that have been or will be taken by the youth's social worker or probation officer to ensure that the eligible youth or nonminor is transitioned into the Medi-Cal program for former foster youth upon case closure with no interruption in coverage and with no new application being required, as provided in Section 14005.28."

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- (e) The 90-Day Transition Plan shall include information on completing a power of attorney for health care.

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(Continued)**31-237**

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- (1) The power of attorney for health care is used to designate an agent to act when a nonminor is not able to make certain health decisions for themselves and either does not have a relative who would otherwise be legally authorized to make such decisions or does not wish to have such a relative make health care decisions on their behalf.

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- (f) The social worker/probation officer shall inform the youth or nonminor dependent of the option to execute an Advance Health Care Directive designating an individual with the power of attorney for health care, as well as indicating specific advance instructions and preferences about any aspect of health care.
 - (1) The social worker/probation officer should provide a printed copy of an Advance Health Care Directive form (Probate Code section 4701) at the 90-Day Transition Plan meeting and explain the steps for filling one out. If the youth is a minor at the time the 90-Day Transition Plan is developed, the youth must wait to complete the form until after turning 18 years of age.
 - (2) County social workers/probation officers shall only offer information about the availability, content, and purpose of the Advance Health Care Directive, without providing legal or health care advice to the youth or nonminor dependent. Youth and nonminor dependents may be directed to consult with their attorney, doctor, CASA, other mentor, or significant person in their life regarding the advisability of completing an Advance Health Care Directive.
- (g) In addition to the mandatory information required by Welfare and Institutions Code Section 16501.1(g)(16)(B), the 90-Day Transition Plan should also include:
 - (1) Information about additional services that will help the youth or nonminor dependent to successfully transition to independence.
 - (2) Information relating to sexual health, services, and resources to assist the youth or nonminor dependent in making healthy and informed decisions for themselves.
- (h) The county social worker/probation officer should begin engaging youth and nonminor dependents in discussion and planning for their transition to independence well before the 90-Day Transition Plan is developed. The social worker/probation officer should talk with the youth or nonminor dependent in advance about:

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- (1) The purpose and importance of the plan.
 - (2) How the youth or nonminor dependent can participate in their transition planning.
 - (3) What topics the plan includes as well as informing the youth or nonminor dependent that they can bring up additional topics to be addressed in the plan.
 - (4) Who the youth or nonminor dependent can bring to the youth's or nonminor dependent's transition plan meeting to help represent their interests.
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- (i) The county social worker/probation officer should examine and consider the youth or nonminor dependent's existing case plans, including the TILP and plans for programs such as Wraparound, education, and mental health, when developing the 90-Day Transition Plan to ensure coordination and consistency among the plans.
 - (j) If a youth or nonminor dependent is unable to engage in meaningful participation in the development of the youth's or nonminor dependent's 90-Day Transition Plan due to developmental disabilities or a physical or mental health disorder, the county social worker/probation officer shall generate a plan in conjunction with representatives from the youth or nonminor dependent's other service providers and other important individuals in the youth or nonminor dependent's life.
 - (k) If a youth's whereabouts are unknown at any time during the 90-day period prior to the youth attaining 18 years of age or at any time after a youth becomes a nonminor dependent, the county shall retain any available personal identification or other legal documents until the individual attains 21 years of age, or the individual is located and their documents are provided to them prior to age 21. Documents include, but are not limited to, the individual's birth certificate, social security card, Medi Cal card, or proof of dependency. Any available documents shall be provided to the nonminor upon request, even if the individual no longer is a dependent.
 - (l) The social worker/probation officer shall include in the plan the names of all persons who participated in the development of the plan. After the 90-Day Transition Plan is completed, the document may be signed by all parties. Copies of the plan shall be given to the youth or nonminor dependent and may be provided to all other individuals involved in developing the plan.

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

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