182-1 ADDED 11/10
The child shall be residing in one of the following eligible facilities:

.411 The home of a nonrelated legal guardian, or the home of a former nonrelated legal guardian when the guardianship of a child who is otherwise AFDC-FC eligible has been dismissed due to the child's attaining age 18, which has been determined to be suited to the needs of the child by the social worker or probation officer.

.412 The approved home of a nonrelative extended family member.

.413 A family home licensed by the appropriate community care licensing agency.

.414 A certified family home certified as meeting licensing standards by a nonprofit foster family agency that is licensed by the department.

.415 A private, nonprofit group home licensed by the department, provided the placement worker has determined that such placement is necessary to meet the treatment needs of the child and that the facility offers such treatment services.

.416 In the case of an Indian child, a facility specified in Section 45-203.411 through .415 or family home as defined in Section 45-101(a)(2)(C).

.417 In the case of a child placed out of the State of California, the child shall be placed in either of the following: (a) An appropriately licensed child care facility which accords the child the same personal rights accorded children as specified in Title 22 California Code of Regulations, Section 80072; (b) A certified out-of-state group home; or

(c) An out-of-state group home which has not been certified by the Department but which has been approved by the Compact Administrator. (§§45-203.41 - .417.)

182-1A ADDED 11/10
Nonrelative extended family member" means an adult caregiver who has an established familial or mentoring relationship with the child, as described in Section 362.7. (W&IC §11400(n))

182-1B REVISED 5/05
In the State AFDC-FC program, no aid shall be paid on behalf of a child who is living in the same home as his/her birth or adoptive parents, as specified in §45-302.2. (§45-203.211, Handbook)

182-1C ADDED 11/10
To continue receiving state Foster Care, the recipient must continue to reside in the state of California. (§§45-201.13, 42-400)

182-2

The Court of Appeal, First Appellate District, Division Three, held §45-101(ee) was invalid to the extent that it treated former stepparents as "relatives" in the State FC Program. (*Norman* v. *McMahon* (1990) 225 Cal. App. 3d 1450, 275 Cal. Rptr. 698) The definition of a "relative" was renumbered, and the *Norman* case was implemented in state regulations by making a revision to the renumbered regulation. (Handbook §45-101(r)(1)(A)3.(a), revised effective August 1, 1998)

Based on a revision to W&IC §11400(m), which had formerly cross-referenced a federal statute, and which now lists those persons who are "relatives" for AFDC-FC purposes, the CDSS has determined that the *Norman* case no longer applies, nor does Handbook §45-101(r)(1)(A)3.(a). All persons, including former stepparents, listed in §45-101(r)(1) are now considered relatives for both state and federal FC purposes. However, children who were living with former stepparents and who were receiving state AFDC-FC as of September 1, 1999 will continue to be eligible for state FC.

(All-County Letter No. 99-58, September 1, 1999; W&IC §11400(m), revising Handbook §45-101(r)(1)(A)3(a))

182-2A ADDED 11/10
For AFDC-FC purposes, when a parent's rights to a child are terminated by the filing of a relinquishment with the Department (CDSS) or by Court action, that parent *and his or her relatives* are no longer considered to be the child's relatives. (§45-101(r)(1)(B))

182-2B ADDED 11/10
Termination of parental rights and responsibilities with respect to a child means an action occurring as the result of an order of the Court issued under Family Code sections 7800, et seq., 7660, et seq., or Welfare and Institutions Code section 366.26. (§45-101(t)(1))

182-3 ADDED 11/10
In the AFDC-FC program the beginning date of aid is the date of application if the child meets all eligibility conditions on that date, or the date on which the child meets all eligibility conditions, whichever is later. (§45-302.31.)

182-3A ADDED 11/10
The date of application means the date on which an authorized county employee completes, signs and dates an application on behalf of a child, or the date on which the county receives a signed and dated application form the child's parent or a person other than a county employee. (§45-302.321)

182-3B
For eligibility under the State AFDC-FC Program, the child shall be placed with a nonrelative or be living with a nonrelated legal guardian. (§45-203.2) The court decision in *Timmons* v. *McMahon* held that the SDSS had unlawfully denied AFDC-FC payments to children living with temporary legal guardians. Children otherwise eligible for State AFDC-FC may receive funding under this program when living with a temporary or permanent nonrelated legal guardian. (All-County Letter (ACL) No. 92-08, January 14, 1992)

182-3C ADDED 11/10
a) If the petition [for guardianship in Probate Court] as filed or as amended states that an adoption petition has been filed, a report with respect to the suitability of the proposed guardian for guardianship shall be filed with the court by the agency investigating the adoption. In other cases, the local agency designated by the board of supervisors to provide public social services shall file a report with the court with respect to the proposed guardian of the same character required to be made with regard to an applicant for foster family home licensure.

(b) The report filed with the court pursuant to this section is confidential. The report may be considered by the court and shall be made available only to the persons who have been served in the proceeding and the persons who have appeared in the proceeding or their attorneys. The report may be received in evidence upon stipulation of counsel for all such persons who are present at the hearing or, if such person is present at the hearing but is not represented by counsel, upon consent of such person. (Prob. Code, §1543)

182-3D ADDED 11/10
Section 1513 only requires a "suitability report" to be filed in non-relative guardianship cases (filed through Probate Court) where an adoption petition regarding the ward has also been filed; in all other non-relative guardianship cases however, this section requires the filing of a report with respect to the proposed guardian of the same character as that required to be made with regard to an applicant for foster family home licensure. (64 Op.Atty.Gen. 456, 6-5-81; reference to Prob. Code, §1543)

182-3E ADDED 11/10
Unless waived by the Probate Court, a court investigator, probation officer, or domestic relations investigator may make an investigation and file with the court a report and recommendation concerning each proposed guardianship of the person or guardianship of the estate. Investigations where the proposed guardian is a relative shall be made by a court investigator. Investigations where the proposed guardian is a nonrelative shall be made by the county agency designated to investigate potential dependency. The report for the guardianship of the person shall include, but need not be limited to, an investigation and discussion of all of the following:

(1) A social history of the guardian.

(2) A social history of the proposed ward, including, to the extent feasible, an assessment of any identified developmental, emotional, psychological, or educational needs of the proposed ward and the capability of the petitioner to meet those needs.

(3) The relationship of the proposed ward to the guardian, including the duration and character of the relationship, where applicable, the circumstances whereby physical custody of the proposed ward was acquired by the guardian, and a statement of the proposed ward's attitude concerning the proposed guardianship, unless the statement of the attitude is affected by the proposed ward's developmental, physical, or emotional condition.

(4) The anticipated duration of the guardianship and the plans of both natural parents and the proposed guardian for the stable and permanent home for the child. The court may waive this requirement for cases involving relative guardians. (Prob. Code, §1513, subd. (a); added by Stats. 1979, c. 756, p. 2335, §3, oper. 1/1/81 as Prob. Code, §1443; Amended Stats. 1986, c. 1017, §2 [discretion to Court to initiate investigation and clear distinction on county / Court staff duties towards investigations].)

182-3F ADDED 11/10
Section 1513 does not apply to guardianships resulting from a permanency plan for a dependent child pursuant to Section 366.26 of the Welfare and Institutions Code. (Prob. Code, §1513(f))

182-3G ADDED 11/10
When the child resides with a nonrelated legal guardian who is not cooperating with the county in its provision of social services, as required in section 45-203.611, subdivision (c), then Foster Care shall not be paid. (§45-302.241)

182-3H ADDED 11/10
A child living with a nonrelated legal guardian shall be eligible for state Foster Care provided, in part, the guardian cooperates with the county in its provision of social services relating to preplacement preventive services, assessments and case plans, family reunification services, visitation rights, relevant periodic reviews, relevant permanent plan hearings, and placement recommendations. (§§45-203.611, subd. (c); 45-201.4)

182-3I ADDED
7/12AB 212 has clarified that nonminor dependents (NMD) in a nonrelated legal guardianship granted through Probate court are not eligible for Extended Foster Care (EFC), but will remain eligible up to 18 years or 19 years if a fulltime student anticipated to completing their education

by 19 years of age, pursuant to MPP section 45-201.11. (ACL No. 11-69, issued Oct. 13, 2011 anticipated this rule; the rule was made effective under Welf. & Inst. Code, §11405, subd. (f), as amended by Stats. 2011, c. 459, [A.B. 212].)

182-4
Effective July 1, 1997 Federal and State AFDC-FC eligibility shall be determined using the AFDC eligibility standards which were in effect on July 16, 1996. No AFDC waivers may be applied in determining eligibility. (All-County Letter No. 98-01, January 2, 1998)

182-4A ADDED 7/06
County staff must verify that the court made a finding that "continuance in the home is contrary to the welfare of the minor" or a finding to that effect. Other acceptable examples include: "there is substantial danger to the welfare of the minor without removing the minor," or "the welfare of minor requires that custody be taken from parents."

For State AFDC-FC, this finding must be made prior to the approval of State AFDC-FC, but need not be in the first court order removing the child from his or her home.
(ACIN I-27-06, April 25, 2006)

182-4B ADDED 7/06
County staff must verify that the court made a finding that "reasonable efforts to prevent or eliminate the need for removal" have been made by the county. This finding must be made by the court no later than 60 days from the date the child is removed from the home; **if this finding is not made timely, the child is ineligible for federal AFDC-FOSTER CARE funding for the duration of that stay in foster care.** For State AFDC-FC, this finding must be made prior to the approval of State AFDC-FC, but need not be made within 60 days from the date of removal.

A finding that reasonable efforts to prevent removal and/or reunify the family is NOT required where the county obtains a finding from a judge that reasonable efforts were not necessary because:

a. the parent has subjected the child to aggravated circumstances such as abandonment, torture, chronic abuse, or sexual abuse; or

b. the parent has been convicted of murder or voluntary manslaughter of another child of the parent; or

c. the parent has been convicted of aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or voluntary manslaughter; or

d. the parent has been convicted of a felony assault that results in serious bodily injury to the child or another child of the parent; or

e. the parental rights of the parent have been terminated to a sibling of the child in foster care.

(ACIN I-27-06, April 25, 2006)

182-4C ADDED 7/06
County staff must verify that the court made a finding that "placement and care" is vested with one of the agencies listed in MPP §45-202.6 (federal) or 45-203.5 (State), or a finding to that effect. Other acceptable examples include: "temporary placement and care is vested with the county" or "care, custody, and control is vested with the county." **This finding may be in any court order, but State and federal AFDC-FC foster care cannot be granted prior to the finding being made.**

(ACIN I-27-06, April 25, 2006)

182-4D ADDED 11/10
"Placement and care" means either the responsibility of the welfare of a child vested in an agency or organization; or, the responsibility designated to an individual having been appointed the child's legal guardian. (§45-101 (p)(5)(A), (B))

183-1 REVISED 6/04
When a child in an AU is moved to FC, the effective date of AFDC-FC assistance is the date he/she is placed in an AFDC-FC eligible facility and is otherwise AFDC-FC eligible. (§44-317.622)

When a child is transferring from AFDC-FC to AFDC-FG/U, or vice versa, but remains in the home of the same related caretaker, the effective date of program transfer is the first of the month following the request for change of program. (§44-317.623)

183-2
In the AFDC-FC program the beginning date of aid is the date of application if the child meets all eligibility conditions on that date, or the date on which the child meets all eligibility conditions, whichever is later. (§45-302.31)

183-3
Except in cases where a child has left the home or is removed from Foster Care, the last date of payment shall be the day preceding the day the child permanently leaves, is removed or runs away from the eligible facility, or turns 18 (or 19 as permitted under §45-201.1) §45-302.51)

183-4

Under the AFDC-FC Program, current rather than retrospective budgeting is used for grant computation purposes. (§45-302.4)

183-4A ADDED 8/05
Pursuant to MPP §45-302.41 the budget period for computation of the foster care payment is the current month. The payment is to be computed on the basis of known or estimated income in the current calendar month. Additionally, MPP §45-303.1 indicates that foster care payments are to be delivered in one amount no later than the fifteenth of the month after the furnishing of care.

All County Information Notice I-32-05, July 13, 2005)

183-5
Supplementation of SSI/SSP with State AFDC- FC is allowed when the child meets all general and State AFDC-FC eligibility requirements, and the cost of foster care placement exceeds the amount of the SSI/SSP benefit level. (§45-302.11) The SSI/SSP payments are income. (All-County Letter No. 94-82, September 30, 1994.)

183-5A
Effective February 4, 1994, federal AFDC-FC payments may be made to otherwise eligible children receiving SSI/SSP, and SSI/SSP payments are not to be counted as income. (All-County Letter No. 94-82, September 30, 1994)

183-7
"Excess payments" made to a "family" from child/spousal support collected in any month are considered available income for CalWORKs purposes in the month received. "Pass-on payments" made on behalf of a foster care case shall be considered income in the month received. (§82-520.5, revised effective October 1, 1998 and repealed effective April 1, 2000) These regulations were revised to provide that all excess and pass-on payments made to a family from child/spousal support are considered available income to the family or foster care child. (§82-518.14, effective April 1, 2000)

184-1
To be eligible for "specialized care", a child must be in receipt of AFDC-FC benefits and be placed in an approved family home or a certified home of a nontreatment foster family agency.

Specialized care allows a county to supplement the family home basic rate for children who require additional care and supervision because of a health and/or behavior problem. The specialized care "increment" supplements the basic rate, and the increment and the basic rate equal the "specialized care rate".

(All-County Information Notice (ACIN) No. I-113-00, November 30, 2000)

184-1A ADDED

7/12A nonminor dependent (NMD) in a Supervised Independent Living Placement (SILP) is eligible to receive a basic rate and applicable clothing allowance, but not a specialized care incremental (SCI) rate. A parenting NMD may also receive the infant supplement when in a Supervised Independent Living Placement (SILP).

In specific cases, the EFC funds may be paid directly to the NMD, or the NMD may designate another person to receive the funds, such as a landlord.

In order for a nonminor to be eligible for a SILP, the nonminor must meet the terms of a "readiness assessment," and have the SILP site approved. The SILP Approval and Placement Agreement (state form SOC 157A) is completed by the case manager to indicate the SILP has been either approved or denied, and signed by the nonminor if approved. (ACL No. 11-77, issued Nov. 18, 2011.)

184-2
The Specialized Care Rates Program is administered at the local level. It is subject to review by the CDSS. Counties which want to adopt or modify such a program are required to submit a proposal to CDSS, which proposal must include the following.

> The current and proposed population to be served including the types of behavior and/or health problems.

> The current and proposed types of facilities utilized.

> Demonstration of cost neutrality to the State General Fund.

> The county's payment approval process.

A detailed description of the required data elements for county proposals is found in §11-401.323.

Following a county's submittal to modify or adopt its specialized care system/plan, CDSS will review the proposed plan and will notify the county in writing whether it was rejected or granted conditional approval. Within one year of the implementation date of the proposal, the county will be required to submit specific documentation as stated in §11-401.34, to demonstrate that the proposed AFDC-FC payments have not increased costs to the State General Fund. The Department will grant final approval of the county's plan contingent upon the county's demonstration of this cost neutrality.

(All-County Information Notice No. I-113-00, November 30, 2000)

184-3 ADDED 11/10

The infant supplement paid shall be a uniform amount to cover the cost of care and supervision of a child in addition to the rate that would otherwise be paid for the minor parent's placement. (§11-415.1)

184-3A ADDED 11/10
An infant supplement shall be paid for the care and supervision of a child living with his/her minor parent in the same eligible facility when the minor parent meets either of the requirements in sections 45-200.11 or .12. (§45-200.2.)

184-3B ADDED 11/10
An infant supplement shall be paid in addition to a minor parent's AFDC-FC payment for a child who is living in the same eligible facility with a minor parent who is receiving AFDC-FC. (§45-302.211)

184-3C ADDED 11/10
A child living with his/her AFDC-FC eligible minor parent in the same eligible facility does not need a separate eligibility determination. The eligibility for the infant supplement is based on the minor parent's AFDC-FC eligibility determination. (§45-201.6)

184-3D ADDED 11/10
In 2007, an amendment to the law expanded the definition of a Whole Foster Family Home (WFFH) to include the home of a nonrelated legal guardian when the guardianship is established by the dependency court, not the probate court; expanded the definition of a teen parent in a WFFH to include a ward of a nonrelated legal guardian whose guardianship is established by the dependency court, not the probate court; extended the benefits of a WFFH to a related guardian's home under the Kinship Guardianship Assistance Payment (KinGAP) Program for those KinGAP relative providers who were previously designated as WFFHs while the child was in foster care; and, clarified that the rate paid to a previously designated WFFH KinGAP relative for the care of an infant of a teen parent shall continue in the KinGAP Program. (All County Letter (ACL) No. 08-24, issued June 9, 2008; citing changes due to Stats. 2007, c. 475 (S.B. 720))

184-3E ADDED 11/10
A "teen parent" means a child who has been adjudged to be a dependent child or ward of the court on the grounds that he or she is a person described under Section 300 or Section 602, or a ward of a nonrelated legal guardian whose guardianship was established pursuant to Section 366.26 or 360, living in out-of-home placement in a whole family foster home, as defined in

subdivision (u) of Section 11400, who is a parent. (Welf. & Inst. Code, §16501.25, subd. (a); added Stats.2005, c. 630 (S.B.500), § 7; and amended Stats. 2007, c. 475 (S.B. 720), § 4)

184-3F ADDED 11/10

(1) When the child of a teen parent is not subject to the jurisdiction of the dependency court but is in the full or partial physical custody of the teen parent, a written shared responsibility plan shall be developed. The plan shall be developed between the teen parent, caregiver, and a representative of the county child welfare agency or probation department, and in the case of a certified home, a representative of the agency providing direct and immediate supervision to the caregiver. Additional input may be provided by any individuals identified by the teen parent, the other parent of the child, if appropriate, and other extended family members. The plan shall be developed as soon as is practicably possible. However, if one or more of the above stakeholders are not available to participate in the creation of the plan within the first 30 days of the teen parent's placement, the teen parent and caregiver may enter into a plan for the purposes of fulfilling the requirements of paragraph (2) of subdivision (d) of Section 11465, which may be modified at a later time when the other individuals become available.

(2) The plan shall be designed to preserve and strengthen the teen parent family unit, as described in Section 16002.5, to assist the teen parent in meeting the goals outlined in Section 16002.5, to facilitate a supportive home environment for the teen parent and the child, and to ultimately enable the teen parent to independently provide a safe, stable, and permanent home for the child. The plan shall in no way limit the teen parent's legal right to make decisions regarding the care, custody, and control of the child.

(3) The plan shall be written for the express purpose of aiding the teen parent and the caregiver to reach agreements aimed at reducing conflict and misunderstandings. The plan shall outline, with as much specificity as is practicable, the duties, rights, and responsibilities of both the teen parent and the caregiver with regard to the child, and identify supportive services to be offered to the teen parent by the caregiver or, in the case of a certified home, the agency providing direct and immediate supervision to the caregiver, or both. The plan shall be updated, as needed, to account for the changing needs of infants and toddlers, and in accordance with the teen parent's changing school, employment, or other outside responsibilities. The plan shall not conflict with the teen parent's case plan. Areas to be addressed by the plan include, but are not limited to, all of the following: Feeding; clothing; hygiene; purchase of necessary items, including, but not limited to, safety items, food, clothing, and developmentally appropriate toys and books. This includes both one-time purchases and items needed on an ongoing basis; health care; transportation to health care appointments, child care, and school, as appropriate; provision of child care and babysitting; discipline; sleeping arrangements; visits among the child, his or her noncustodial parent, and other appropriate family members, including the responsibilities of the teen parent, the caregiver, and the foster family agency, as appropriate, for facilitating the visitation. The shared responsibility plan shall not conflict with the teen parent's case plan and any visitation orders made by the court. (Welf. & Inst. Code, §16501.25,

subds. (b1) – (b)(3); added Stats.2005, c. 630 (S.B.500), § 7; and amended Stats. 2007, c. 475 (S.B. 720), § 4)

184-3G ADDED 11/10
Upon completion of the shared responsibility plan and any subsequent updates to the plan, a copy shall be provided to the teen parent and his or her attorney, the caregiver, the county child welfare agency or probation department and, in the case of a certified home, the agency providing direct and immediate supervision to the caregiver. (Welf. & Inst. Code, §16501.25, subd. (c); added Stats.2005, c. 630 (S.B.500), § 7; and amended Stats. 2007, c. 475 (S.B. 720), § 4)

184-3H ADDED 11/10
The shared responsibility plan requirements shall no longer apply when the two hundred dollar ($200) monthly payment is made under the Kin-GAP program to a former whole family foster home pursuant to subdivision (a) of Section 11465. (Welf. & Inst. Code, §16501.25, subd. (d); added Stats.2005, c. 630 (S.B.500), § 7; and amended Stats. 2007, c. 475 (S.B. 720), § 4)

184-5 ADDED
7/12A new basic rate structure was ordered for Foster Care youth following a judgment issued by the Court in the case of *California State Foster Parent Assoc., et al. v. Lightbourne*, stating that the current state Foster Care rates did not comply with the Federal Child Welfare Act [42 U.S.C. §§ 670–679b]. Initially prior to the passage of Assembly Bill 106, the CDSS believed that the new increased rates would only impact state-licensed Foster Family Homes (FFH) – this is no longer true. It was also initially determined that the new proposed rate structure would be initiated on May 31, 2011, but was subsequently ordered to be effective for the full month of May 2011. (ACIN No. I-20-11, issued Apr. 14, 2011; ACL No. 11-42, issued May 31, 2011; and ACL 11-42 errata, issued Jun. 14, 2011.)

184-5A

ADDED 7/12
On June 29, 2011, Assembly Bill 106 was enacted to adjust the basic rates set forth under Welfare and Institutions Code section 11461, and in response to California State Foster Parent Association v. William Lightbourne, 2011 U.S. Dist. LEXIS 57483 (N.D. Cal May 27, 2011), which changed the methodology in setting

FFH basic rates. AB 106 ordered the rates to impact Foster Care, KinGAP, and the Adoption Assistance Program (AAP). Effective May 1, 2011, as well as on and after January 1, 2012, for those youth in extended foster care, dependent minors placed in a state-licensed facility, or the approved home of a relative or nonrelated extended family member, or a youth in a supervised independent living program (SILP) setting, (but not necessarily for nonrelated legal guardianships) the Foster Care rate will be based upon the following age-related state-approved foster family home (basic) rates:

Age	0-4	5-8	9-11	12-14	15-19
Rate	$609	$660	$695	$727	$761

Effective July 1, 2011, the age-related state-approved foster family home (basic) rates is increased 1.92 percent, reflecting the California Necessities Index (CNI) for fiscal year 2011-2012, as follows:

Age	0-4	5-8	9-11	12-14	15-19
Rate	$621	$673	$708	$741	$776

In accordance with Welfare and Institutions Code section 11461, subdivision (e)(4)(C)(1), the Specialized Care Increment (SCI) will not receive a cost of living adjustment for fiscal years 2011-2012, or 2012-2013, but the county may wish to apply a cost of living adjustment to its SCIs for those fiscal years. The ACL did not authorize an increase in the SB 84 dual agency rates.
(ACL No. 11-63, issued Sep. 20, 2011; ACL No. 11-63 errata, issued Dec. 11,

2011; referencing Stats. 2011, c. 32, [A.B. 106], and California State Foster Parent Association v. William Lightbourne, 2011 U.S. Dist. LEXIS 57483 (N.D. Cal May 27, 2011).)

184-5B

ADDED
7/12

On June 29, 2011, Assembly Bill 106 was enacted to adjust the basic rates set forth under Welfare and Institutions Code section 11461, and in response to California State Foster Parent Association v. William Lightbourne, 2011 U.S. Dist. LEXIS 57483 (N.D. Cal May 27, 2011), which changed the methodology in setting FFH basic rates. AB 106 ordered the rates to impact Foster Care, KinGAP, and the Adoption Assistance Program (AAP). Effective May 1, 2011 and continuing through June 30, 2011, for nonrelated legal guardianships granted prior to May 1, 2011, the Foster Care rate will be based upon the following age-related state-approved foster family home (basic) rates:

Age	0-4	5-8	9-11	12-14	15-19
Rate	$446	$485	$519	$573	$627

Effective July 1, 2011, for nonrelated legal guardianships granted prior to May 1, 2011, the Foster Care rate will be based upon the following age-related state-approved foster family home (basic) rates:

Age	0-4	5-8	9-11	12-	15-

				14	19
Rate	$455	$494	$529	$584	$639

Effective May 1, 2011 and continuing through June 30, 2011, for nonrelated legal guardianships granted on or after May 1, 2011, the Foster Care rate will be based upon the following age-related state-approved foster family home (basic) rates:

Age	0-4	5-8	9-11	12-14	15-19
Rate	$609	$660	$695	$727	$761

Effective July 1, 2011, for those nonrelated legal guardianships granted on or after May 1, 2011, the age-related state-approved foster family home (basic) rates is increased 1.92 percent, reflecting the California Necessities Index (CNI) for fiscal year 2011-2012, as follows:

Age	0-4	5-8	9-11	12-14	15-19
Rate	$621	$673	$708	$741	$776

(ACL No. 11-63, issued Sep. 20, 2011; ACL No. 11-63 errata, issued Dec. 11, 2011; referencing Stats. 2011, c. 32, [A.B. 106], and California State Foster Parent Association v. William Lightbourne, 2011 U.S. Dist. LEXIS 57483 (N.D. Cal May 27, 2011).)

185-1 ADDED 9/09

Overpayment Recovery for Foster Care Providers, including but not limited to, Group Homes, Foster Family Agencies, Small Family Homes, Foster Family Homes, Relative Homes, Nonrelative Extended Family Members, and Non-related Legal Guardians

- An overpayment is any amount of aid paid which a foster care provider received on behalf of a child to which the provider was not entitled, or an expenditure made by a Foster Family Agency or a group home provider not in conformity with section 11-404..

(§45-304.1 and .11)

185-1A ADDED 9/09
An overpayment does not occur when the county exercises the option to make payment to an eligible facility for a child temporarily absent for a period not to exceed 14 days in a calendar month, in accordance with Section 45-302.231. (§45-304.113)

185-3 REVISED 6/08
State law was amended effective January 1, 1999, and again in 2007 to allow collection of certain Foster Care (FC) overpayments. The new law provided, in pertinent part, that:

"(a) In accordance with this section, a county shall collect an overpayment, discovered on or after January 1, 1999, made to a foster family home, an approved home of a relative, **an approved home of a nonrelative extended family member,** or an approved home of a nonrelative legal guardian, for any period of time in which the foster child was not cared for in that home, unless any of the following conditions exist, in which case a county shall not collect the overpayment:

"(1) The cost of the collection exceeds that amount of the overpayment that is likely to be recovered by the county. The cost of collecting the overpayment and the likelihood of collection shall be documented by the county. **Costs that the county shall consider when determining the cost-effectiveness to collect are total administrative, personnel, legal filing fee, and investigative costs, and any other applicable costs.**

"(2) The child was temporarily removed from the home and payment was owed to the provider to maintain the child's placement, **or the child was temporarily absent from the provider's home, or on runaway status and subsequently returned, and payment was made to the provider to meet the child's needs**.

"(3) The overpayment was exclusively the result of a county administrative error or both the county welfare department and the provider were unaware of the information that would establish that the foster child was not eligible for foster care benefits.

"(4) The provider did not have knowledge of, and did not contribute to, the cause of the overpayment."

(W&IC §11466.24, effective January 1, 1999 as amended by Senate Bill 84, Chapter 177, Statutes of 2007. **Amendments in bold**)

185-3A REVISED 9/09
Nothing in §45-304.122, .123 or .124 prevents counties from collecting an overpayment which results from the payment of aid paid pending." (§45-304.127)

185-3C REVISED 9/09
The county shall demand and collect overpayments from a Foster Family Home, an approved home of a relative or non-relative extended family member, an approved home of a nonrelated legal guardian, Group Homes, Small Family Homes and Foster Family Agencies for any period of time in which the foster child was not cared for in that home, except as provided in Sections 45-304.123 and 45.304.125.

The county shall not demand collection of overpayments made to a Foster Family Home, an approved home of a relative or non-relative extended family member, or an approved home of a nonrelated legal guardian, where any of the following conditions exist:

- The overpayment was exclusively the result of a county administrative error;
- Neither the county nor the provider was aware of the information that would establish that the child was not eligible for foster care benefits in that provider's home; or
- The provider did not have knowledge of, and did not contribute to, the cause of the overpayments.

For the overpayments described in section 45-304.123, the county may request the provider voluntarily return an overpayment when the county informs the provider that they have no legal or other obligation to return the overpayment, and failure to return the overpayment will not result in any adverse action against the provider and any child living in the home.

(§45-304.122 through .124)

185-3D REVISED 9/09
The county shall not pursue collection of overpayments made to an overpaid foster care provider where the cost of the collection exceeds the amount of the overpayment. (§45-304.125)

Costs which the county shall consider when determining the cost effectiveness to collect are the total administrative and personnel costs, legal filing fees, investigative costs, and any other costs which are applicable. (§45-304.125(a))

State law provides that the county shall not "collect the overpayment" when the cost of the collection "exceeds that amount of the overpayment that is likely to be recovered" by the county. That same law requires the county to document both the cost of collecting the overpayment and the likelihood of collection. (W&IC §11466.24(a)(1))

185-3E ADDED 9/09

The county shall not demand collection of overpayments made to non-profit corporations operating group homes or foster family agencies that are no longer in business or licensed by the department. (§45-304.126)

185-3F ADDED 9/09
For recoupment of overpayments made to group homes and foster family agencies, the counties shall reduce any subsequent payments by an amount equal to the amount of the administrative portion of the monthly payment to the provider. See Section 45-305 for offset methodology. (§45-304.33)

185-4
FC overpayments are to be investigated when information indicates that such overpayments may have occurred.

Under state regulations, the following process is followed:

.211 Review eligibility factors to determine the correct grant.

.212 Calculate the amount of the overpayment

.213 Determine whether any factors regarding no fault on the part of the provider (see §§45-304.123 and .124) preclude overpayment recovery. If none of those factors preclude recovery, then:

- Determine from whom the overpayment may be recovered by referring to §45-304.3
- Comply with the requirements of §45-305 that address notice requirements and overpayment recovery procedures including voluntary repayment, voluntary grant offset, involuntary repayment such as grant adjustment and civil judgment
- The county may seek voluntary collection consistent with §45-305.231.

.214 If after performing the actions required under §45-305, full recovery of the overpayment is not achieved, then the county shall determine whether to pursue collection of the overpayment as specified in §45-304.125. ..

(§45-304.2)

185-4A
Under state regulations in §45-304.2, an overpayment can be recovered from an FC provider when such provider cared for a child in that provider's home, and none of the provisions in §45-304.21 apply. Under state law, an overpayment can only be established against "a foster family home, an approved home of a relative, or an approved home of a nonrelated legal guardian, for any period of time in which the foster child was not cared for in that home." [emphasis added] (W&IC §11466.24(a))

185-5
FC overpayments shall only be collected from the provider who actually received the overpayment from the county. (§45-304.31) If the child for whom the overpayment was

assessed is no longer residing in the home of the provider, grant adjustment and grant offset shall not be used to recover the overpayment. (§45-304.32)

185-6
Under state law:

"There shall be a one-year statute of limitations from the date upon which the county determined that there was an overpayment."

(W&IC §11466.24(f))

185-6A REVISED 9/09
A county shall not initiate overpayment recovery after one year from the date the county discovers the overpayment. (§45-304.42)

When the overpayment recovery was initiated within one year of the date the county discovered the overpayment, the county shall continue to recover the overpayment until fully recovered or written off pursuant under the county's write off policy. (§45-304.421)

"The initial determination of the [Foster Care] overpayment may occur more than a year after the actual overpayment occurred and recovery shall be sought. The date of the determination is controlling, not the date of the actual overpayment." (Handbook §45-304.421)

185-7 REVISED 9/09
The county may recover FC overpayments through voluntary repayment agreements, voluntary grant offsets, grant adjustments, demand for repayment, or civil judgment. (W&IC §11466.24(e); §45-305.1, .2, .3))

185-8
If an FC provider is successful in the appeal of a collected overpayment, the incorrectly collected funds shall be repaid, plus simple interest, based on the Surplus Money Investment Fund. (§11466.24(d))

185-9 ADDED 6/08
Welfare and Institutions Code (W&IC) section 11466.23 defines a federal foster care or adoption assistance overpayment as any amount of aid paid to which a foster care provider or an adoption assistance recipient was not entitled. The addition of this section identifies those placement categories described in W&IC Section 11400 as Certified Family Homes, licensed or approved Family Homes, Small Family Homes, Foster Family Agencies, Group Homes, Relatives, and Non-Relative Extended Family Members as placement categories that are now statutorily eligible for overpayment identification and collection.

This section requires counties to remit the identified federal fund overpayment amounts following the completion of due process, unless any of the following occurs:

- The amount is legally uncollectible pursuant to Section 11466.24.
- The cost of the collection exceeds the overpayment.
- The foster family agency (FFA) or group home (GH) is no longer in business or licensed by Community Care Licensing.

(All County Letter 08-10, March 21, 2008)

185-9A ADDED 6/08
Welfare and Institutions Code (W&IC) section 11466.24 has been amended to expand the population of foster care placements subject to overpayment collection and due process procedures to include an approved home of a nonrelative extended family member. In addition to identifying the conditions under which a county should not collect an overpayment, this section adds language that identifies the types of costs counties should consider when determining the cost effectiveness of collecting overpayments. These costs are identified as total administrative, personnel, legal filing fees, investigative costs, and any other applicable costs.

Furthermore, language has been added that clarifies the different situations in which an overpayment should not be collected. For example, a child may be temporarily absent from the provider's home in addition to having been temporarily removed from the home; or, the child was on runaway status and payment was owed to the provider to maintain the child's placement or to meet the child's needs. The amended section also provides consistency for provider due process through the use of both informal and formal hearings rather than a review. (All County Letter 08-10, March 21, 2008)

185-10 ADDED 9/09
A county shall not collect interest on the repayment of an overpayment unless Section 45-305.33 applies. (§45-304.41)

The county shall collect interest on overpayments in circumstances in which the overpaid provider has either failed to enter into a voluntary repayment agreement, or has failed to comply with the terms of a voluntary overpayment agreement, unless:

(a) An overpayment was made to a foster family home, an approved home of a relative, an approved home of a non-relative extended family member, or an approved home of a non-relative legal guardian, for any period of time in which the foster child was not cared for in that home and none of the following conditions existed:
(1) The child was temporarily absent from the home and payment was made to the provider to meet the child's needs; or
(2) The overpayment was exclusively the result of county administrative error; or
(3) The provider did not have knowledge of, and did not contribute to the cause of the overpayment.

(b) Interest collection would cause a financial hardship for the provider to provide adequate care and supervision to all children in care.

(§45-305.33)

185-11 ADDED 9/09
Unless otherwise provided for in §45-305, the county shall collect group home provider and foster family agency overpayments in accordance with the procedures established for group home overpayments pursuant to MPP Section 11-402.66. For purpose of this section, the term "county" shall be substituted for the word "department" wherever that term appears in MPP Section 11-402.66. (§45-305.34)

185-12 ADDED 9/09
Appeal rights of providers are subject to a collectible overpayment assessment pursuant to Section 45-304 and Section 45-305. These informal and formal hearing processes are not available to providers, who have entered into a voluntary repayment agreement, to contest the overpayment determination or the overpayment amount. (§ 45-306)

The informal hearing process shall not preclude the provider's right to a state hearing. (§45-306.1)

185-12A ADDED 9/09
If a provider requests an informal hearing, the 90-day period to request a formal hearing under MPP Section 22-009.11 shall be suspended. The 90-day period to request a formal hearing shall start when the county issues an informal hearing decision, or when the provider either withdraws their request for the informal hearing, or fails to appear for the informal hearing, whichever occurs first. (see §45-306.2 for informal hearing procedures)

(§45-306.3)

186-1
Rates for AFDC-FC children placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, are based on statutory monthly rates established in July 1989 and adjusted based on statutory formulae. (W&IC §11461)

186-1A REVISED
9/11Pursuant to a court order, the payment rates for family homes effective July 1, 2011 are: Ages 0-4: $621, 5-8: $673, 9-11: $708, 12-14: $741, and 15-19: $776. The increases apply to licensed or approved family homes, approved home of a relative or the approved home of a non-relative extended family member, and state and federal Kin-GAP. Welfare and Institutions Code Section (§) 11461 All County Letter (ACL) No. 11-42, 11-42E, 11-63.

186-2
When an AFDC-FC child is placed in a different county than the county with payment responsibility, the responsible county shall pay the host county's rate.

This rule shall also apply in counties with specialized care rates, except if the host county has no specialized care rate and the responsible county does have such a rate, the county responsible for payment shall pay its own rate. (§11-401.4)

186-3
An FC child residing in a family or group home as a result of placement by a public agency, or by a private agency which has legal custody due to relinquishment or court order, is considered to make his/her home in the county in which the agency is located.

The agency has placed the child if it actively participated in making the decision as to whether or not the child was to be placed, and if it initiated the placement through direct negotiations or requested help in making the placement. (§40-125.81)

186-6
The "basic rate" is defined as the rate paid on behalf of an AFDC child placed in a family home exclusive of any specialized care increment. (§11-400b.(3))

A "specialized care increment" is defined as an amount paid to a family home in addition to the family home basic rate on behalf of an AFDC-FC child requiring specialized care because of health and/or behavior problems. (§11-400s.(6))

The "specialized care rate" is defined as the total rate (family home basic rate plus the specialized care increment) paid on behalf of an AFDC-FC child requiring specialized care. (§11-400s.(7))

Counties shall separately identify their family home basic rate and specialized care increment. (§11-401.211)

186-6A ADDED 11/10
To be eligible for "specialized care", a child must be in receipt of AFDC-FC benefits and be placed in an approved family home or a certified home of a non-treatment foster family agency. Specialized care allows a county to supplement the family home basic rate for children who require additional care and supervision because of a health and/or behavior problem. The specialized care "increment" supplements the basic rate, and the increment and the basic rate equal the "specialized care rate."

(All-County Information Notice (ACIN) No. I-113-00, issued Nov. 30, 2000)

186-6B ADDED 11/10
The Specialized Care Rates Program is administered at the local level. It is subject to review by the CDSS. Counties which want to adopt or modify such a program are required to submit a proposal to CDSS, which proposal must include the following:

> The current and proposed population to be served including the types of behavior and/or health problems.

> The current and proposed types of facilities utilized.

> Demonstration of cost neutrality to the State General Fund.

> The county's payment approval process.

A detailed description of the required data elements for county proposals is found in section 11-401.323. Following a county's submittal to modify or adopt its specialized care system/plan, CDSS will review the proposed plan and will notify the county in writing whether it was rejected or granted conditional approval. Within one year of the implementation date of the proposal, the county will be required to submit specific documentation as stated in section 11-401.34, to demonstrate that the proposed AFDC-FC payments have not increased costs to the State General Fund. The Department will grant final approval of the county's plan contingent upon the county's demonstration of this cost neutrality. (ACIN No. I-113-00, issued Nov. 30, 2000)

186-7 ADDED 11/10
“Medically fragile” means having an acute or chronic health problem which requires therapeutic intervention and skilled nursing care during all or part of the day. Medically fragile problems include, but are not limited to, HIV disease, severe lung disease requiring oxygen, severe lung disease requiring ventilator or tracheostomy care, complicated spina bifida, heart disease, malignancy, asthmatic exacerbations, cystic fibrosis exacerbations, neuromuscular disease, encephalopathies, and seizure disorders. (Health & Saf. Code, §1760.2(b))

186-9 ADDED 10/04
The appropriate rate to pay for a child placed with a relative/non-relative extended family member (NREFM) who is also a certified home of a foster family agency (FFA) depends on the type of placement the child needs and whether the child is federally or state eligible for foster care.

If the child needs an FFA placement and the county places the child with an FFA who then places the child in a certified home of a person who happens to be a relative/NREFM of the child, then the county may pay the FFA rate for the placement.

If the county places the child in an approved home of the relative/NREFM who is also an FFA certified home (or later becomes one), and the child's needs can be met by a relative/NREFM placement, then the county may only pay the basic rate (plus specialized care if appropriate) regardless of the relative/NREFM's status as an FFA certified home. (All County Letter 04-28, July 16, 2004)

186-10 ADDED 6/08

Effective July 1, 2007 there are new dual agency care rates for children who are served by both California Regional Centers and California Child Welfare and Probation Agencies. Children who are consumers of regional center services and recipients of either AFDC-FC or AAP benefits are hereinafter referred to as "dual agency children".

Welfare and Institutions Code (W&IC) § 11464 recently enacted by Senate Bill 84 establishes a new rate of two thousand and six dollars ($2,006) for the care and supervision of dual agency children three years of age and older. It establishes a new rate of eight hundred ninety-eight dollars ($898) for the care and supervision of children under three years of age who receive services under the California Early Start Intervention Services Act, but are not yet determined to have a developmental disability, as defined in the Lanterman Developmental Disabilities Services Act, (hereinafter referred to as "the Lanterman Act").

SB 84 establishes that if a regional center subsequently determines that a child under three years of age is an individual with a developmental disability, as defined in the Lanterman Act, the rate to be paid from the date of that determination is $2,006.

(All County Letter 08-17, March 28, 2008)

186-10A ADDED
7/16
Neither an Individual Program Plan (IPP) nor current receipt of Regional Center services is required for dual agency rate eligibility. An eligibility letter or other documentation of eligibility for regional center services issued by a regional center is sufficient to establish eligibility for the dual agency rate. Unless otherwise stated in the document, the date of the document should be presumed to be the date of eligibility for regional center services.

Once dual agency rate eligibility is established, the rate payment shall continue until and/or unless the regional center determines, based on a reassessment under WIC 4643.5(b), that the child is no longer eligible for regional center services.
(All County Letter 16-54, June 27, 2016)

186-10B ADDED 6/08
For purposes of dual agency rate setting**,** a foster care provider receives a per child, per month, AFDC-FC rate for providing care and supervision to a foster child placed with that provider in one of the following:

1) the approved home of a relative;
2) the licensed family home of a non-relative;
3) the approved home of a non-relative extended family member; or
4) the home of a non-related legal guardian or former non-related guardian when the guardianship of a child otherwise eligible for AFDC-FC has been dismissed due to a child attaining 18 years of age. (W&IC Sections 11402, 11461, and 362.7).

(All County Letter 08-17, March 28, 2008)

186-10C ADDED 6/08
For foster care providers receiving an AFDC-FC rate for a dual agency child where the rate was set prior to July 1, 2007, and that rate is higher than the $2,006 rate, (and the supplement to the rate, if applicable), the higher rate will remain in effect until a change in placement warrants a redetermination of the rate or the child is no longer AFDC-FC eligible.

For foster care providers receiving an AFDC-FC rate for a dual agency child paid before July 1, 2007, that is lower than the $2,006 rate, (and the supplement to the rate, if applicable), counties shall increase the lower rate to the $2,006 rate, (and the supplement to the rate, if applicable), retroactive to July 1, 2007. (All County Letter 08-17, March 28, 2008)

186-10D ADDED 6/08
The rate for the care and supervision of a child under three years of age who is receiving AFDC-FC benefits and services under the California Early Start Intervention Services Act but who has not yet been determined by the regional center to have a developmental disability, as defined in the Lanterman Act, is $898 per child, per month. **There is no supplement to this rate.**

If a regional center subsequently determines that a child under three years of age has a developmental disability, as defined in the Lanterman Act, the rate to be paid from the date of the determination is $2,006. **There is no supplement to this rate.**

For foster care providers receiving an AFDC-FC rate that is higher than the $898 rate for a dual agency child under three years of age paid before July 1, 2007, foster care providers will continue to receive the higher rate until a change of placement warrants a redetermination of the rate or the child is no longer AFDC-FC eligible.

For foster care providers receiving an AFDC-FC rate that is lower than the $898 rate for a dual agency child under three years of age paid before July 1, 2007, counties shall increase the lower rate to the $898 rate, retroactive to July 1, 2007. (All County Letter 08-17, March 28, 2008)

186-10E ADDED 11/10
Once a child being paid the SB 84 early start rate under the California Early Start Intervention and Services Act (CESISA) exceeds three years of age, but has not yet been determined to be developmentally disabled under the Lanterman Act as a consumer of a Regional Center, the SB 84 early start rate is to be discontinued. The child should then be assessed for the appropriate special care incremental rate, if appropriate. (ACL No. 10-16, question 8, June 4, 2010)

186-10F ADDED 6/08
Welfare and Institutions Code (W&IC) Section 11464, as added by SB 84, Chapter 177, Statutes of 2007, includes provisions for dual agency children who are receiving AFDC-FC benefits and for whom an ARM rate determination request was pending with a regional center before July 1, 2007. Specifically, these children will receive the ARM rate determined by the

regional center through an individualized assessment, or the $2,006 rate, (and the supplement to the rate, if applicable), whichever is greater. This process is limited to ARM rate requests that had been made and were pending before July 1, 2007. The county must verify with the regional center that the rate request was made before July 1, 2007, and establish the rate accordingly.

Except when the county can confirm that the rate request was made before July 1, 2007, effective July 1, 2007, the regional centers will no longer establish ARM rates for AFDC-FC purposes, and counties may not accept such letters from the regional centers to have rates established. (All County Letter 08-17, March 28, 2008).

186-10G ADDED 11/10
For dependent child receiving a special care rate who subsequently becomes a dual agency child, the county is to pay the higher rate, either the special care rate or SB 84 dual agency rate, until a change in placement occurs. At that time, the county is then to begin paying the SB 84 dual agency rate, if applicable. (ACL No. 10-16, question 6, June 4, 2010 referencing ACL No. 08-17, March 28, 2008)

186-10H ADDED 11/10
Children receiving an ARM rate set by the California Department of Developmental Services (CDDS) residing in a Regional Center vendorized state-licensed Community Care Facility (CCF), including a Foster Family Home (FFH), are not subject to an SB 84 dual agency rate or a supplement to the dual agency rate (SDA). The SB 84 early start rate under CESISA and the dual agency rate under the Lanterman Act, as well as the SDA, were established by CDSS effective July 1, 2007 for the care and supervision of dual agency children placed in non-vendorized facilities. (ACL No. 10-16, question 17, June 4, 2010)

186-10I ADDED 11/10
Certified Foster Homes (CFH) who have a dependent child placed through Foster Family Agency (FFA) are not eligible to receive dual agency rates under Senate Bill 84. Dual agency rates under SB 84 are approved for placements in the approved home of a relative; the licensed family home of a non-relative; the approved home of a nonrelative extended family member (NREFM); or the home of a non-related legal guardian or former non-related guardian when the guardian of a child otherwise eligible for AFDC-FC has been dismissed due to a child attaining 18 years of age. (ACL No. 10-16, question 20, June 4, 2010; citing Welf. & Inst. Code, §§ 362.7, 11402, and 11461)

186-10K ADDED 3/09
For dual agency children adoptively placed or placed in foster care on or after July 1, 2007, through December 1, 2008, the date ACL No. 08-58 was issued, the effective date of SDA Rate is either: July 1, 2007; the date of

foster care or adoptive placement; or, the date the child becomes a Regional Center consumer, whichever is later.

For children entering foster care or are adoptively placed and are recipients of AFDC-FC or AAP benefits after December 1, 2008, the effective date of the SDA Rate is the date the request for the rate is made, or the date of the Regional Center referral to the county for determination of this rate, which date is earlier.

For dual agency children in foster care or who have been adoptively placed after December 1, 2008, but before the information letter from the county is received, the effective date of the SDA Rate is: December 1, 2008; the date of placement; or, the date of the child becomes a Regional Center consumer, whichever date is later.

(ACL 08-54, December 1, 2008)

186-10L ADDED 3/09
Children who receive or request rates pursuant to Senate Bill 84 are afforded the same rights to due process as all children applying for Foster Care or AAP benefits. (Welfare and Institutions Code (W&IC) §11464(a)(4), ACL 08-54, December 1, 2008)

186-10M ADDED 11/10
Dual agency children receiving Foster Care benefits paid at the Senate Bill 84 dual agency rate are eligible to receive the supplemental $100 clothing allowance. (ACL No. 10-16, question 4, June 4, 2010)

186-20 ADDED 6/08
SB 84 establishes a new supplement to the $2,006 rate not to exceed one thousand dollars ($1,000) for dual agency children three years of age and older with extraordinary care and supervision needs. SB 84 requires the California Department of Social Services (CDSS) and the Department of Developmental Services (DDS), in consultation with stakeholders, to develop objective criteria for determining eligibility for a supplement to the rate as well as rate levels of the supplement. The criteria must be implemented by an ACL within 120 days of the date on which the changes in dual agency care rates became effective. (All County Letter 08-17, March 28, 2008)

186-20A REVISED 3/09
Welfare and Institutions Code (W&IC) Section 11464 (c)(2)(A), gives a county sole discretion to authorize a supplement to the rate not to exceed $1,000 for dual agency children three years of age and older, if it determines the child has the need for extraordinary care and supervision that cannot be met within the $2,006 rate. Upon request of a foster care provider, **or** upon referral from a regional center, the county must determine the eligibility of a dual agency child for a supplement to the rate.

The CDSS and Department of Developmental Services (DDS), in consultation with stakeholders representing county child welfare agencies, regional centers, advocates, legislative staff and

foster and adoptive parents are currently developing objective criteria that counties will use to determine eligibility for the supplement to the rate, pursuant to W&IC Section 11464 (c)(2)(A). (All County Letter 08-17, March 28, 2008, 08-54, December 1, 2008)

186-20B ADDED 3/09
The Supplement to the Dual Agency Rate (SDA Rate) is not available to children under the age of three years who are provided services by a Regional Center through the California Early Start Intervention Services Act. Early start dual agency children (under the age of three years) in foster care or who are adoptively placed receive a special rate under Senate Bill 84 (currently $898.00 each month as of July 1, 2007). (ACL 08-54, December 1, 2008)

186-20C ADDED 3/09
Effective December 1, 2008, the county has 60 days to send out an information letter regarding the Supplement to the Dual Agency (SDA) Rate. The SDA Rate may be requested either directly by a dual agency child's foster caregiver or adoptive parent, or through a referral from a Regional Center. A referral from the Regional Center does not provide an automatic right to receive the SDA Rate. The county must determine the child's eligibility to receive the SDA Rate within 90 days of the receipt of the request for this rate. (ACL 08-54, December 1, 2008)

186-20D ADDED 3/09
The Supplement to the Dual Agency Rate (SDA Rate) is structured in four levels of $250.00, $500.00, $750.00, and a maximum of $1,000.00, based upon the assessment of the severity of a dual agency child's condition. The SDA Rate, once determined, will remain in effect until the dual agency child is no longer eligible to receive

Regional Center services, or is no longer eligible for Foster Care or AAP benefits. (ACL 08-54, December 1, 2008)

186-20E ADDED 3/09
The counties must use objective criteria developed by the state to determine extraordinary care and supervision needs used to determine the SDA Rate, which are based upon: (1) Severe impairments in physical coordination and mobility; (2) severe deficits in self-help skills; (3) severely disruptive or self-injurious behavior; and/or, (4) a severe medical condition.

A state form (SOC 837), the "Supplement to the Rate Questionnaire," must be used to assess the child's eligibility for the SDA Rate. The assessment must be performed by the county child welfare services worker or adoption worker, and the Regional Center (RC) service coordinator or other RC representative. The assessor and the person reviewing the document must sign and return the SOC 837 to the county or adoption district office within 10 days for processing. The county may also collect information from other professionals, such as MFTs, LCSWs, or

other medical, developmental, educational, or mental health professions who have relevant information on the child's condition.

Once the assessment of the child is completed using the SOC 837 Questionnaire, the county child welfare services or adoption worker must complete the "Supplement to the Rate Eligibility Form" (state form SOC 836), to determine the dual agency child's SDA Rate. Foster caregivers and adoptive parents will receive the completed SOC 837 and 836 upon request. (ACL 08-54, December 1, 2008)

186-20F ADDED 11/10
A representative or service coordinator from the child's Regional Center must review and sign the Supplement to the Rate Questionnaire (state form SOC 837) prior to determining the child's eligibility to receive a supplement to the dual agency (SDA) rate.

The Welfare and Institutions Code, section 11464, subdivision (c)(2)(C) states "When assessing a request for the supplement, the county shall seek information form the consumer's regional center to assist in the assessment." CDDS released a directive on December 16, 2008 to all Regional Center executive directors to assist counties in completing the questionnaire to assess the child's eligibility for the appropriate SDA rate.

If the Regional Center refuses to sign the SOC 837, the county should note on the SOC 837 the name of the Regional Center staff person consulted who provided information relating to the questionnaire. Also, the county is instructed to contact the CDSS Foster Care Rates Bureau, Rates Policy Unit, so that CDSS can inform CDDS of these concerns. (ACL No. 10-16, questions 28 and 29, June 4, 2010)

186-20G ADDED 11/10
Regardless of whether a dual agency child under three years of age receives the $898 SB 84 early start rate, or is deemed a Regional Center consumer under the Lanterman Act receiving the $2,006 SB 84 dual agency rate, the child is not eligible to receive a supplement to the dual agency (SDA) rate. (ACL No. 10-16, question 24, June 4, 2010)

186-20H ADDED 11/10
Foster Care benefits paid for dual agency children at the dual agency rate under Senate Bill 84 cannot include Personal and Incidental (P&Is) payments. (ACL No. 10-16, question 2, June 4, 2010)

186-30 ADDED 11/10

If a consumer is or has been determined to be eligible for services by a regional center, he or she shall also be considered eligible by any other regional center if he or she has moved to another location within the state. (Welf. & Inst. Code, §4643.5(a); as amended Stats. 1997, c. 294, (S.B. 391), §37, eff. Aug. 18, 1997)

186-30A ADDED 11/10
An individual who is determined by any regional center to have a developmental disability shall remain eligible for services from regional centers unless a regional center, following a comprehensive reassessment, concludes that the original determination that the individual has a developmental disability is clearly erroneous. (W&IC §4643.5(b); as amended Stats. 1997, c. 294, (S.B. 391), §37, eff. Aug. 18, 1997)

186-30B ADDED 11/10
Whenever a consumer transfers from one regional center catchment area to another, the level and types of services and supports specified in the consumer's individual program plan shall be authorized and secured, if available, pending the development of a new individual program plan for the consumer. If these services and supports do not exist, the regional center shall convene a meeting to develop a new individual program plan within 30 days. Prior to approval of the new individual program plan, the regional center shall provide alternative services and supports that best meet the individual program plan objectives in the least restrictive setting. The department shall develop guidelines that describe the responsibilities of regional centers in ensuring a smooth transition of services and supports from one regional center to another, including, but not limited to, pre-transferring planning and a dispute resolution process to resolve disagreements between regional centers regarding their responsibilities related to the transfer of case management services. (W&IC §4643.5(c); as amended Stats. 1997, c. 294, (S.B. 391), §37, eff. Aug. 18, 1997)

186-30C ADDED 11/10
The California Department of Developmental Services (DDS) is charged under the Lanterman Developmental Disabilities Services Act (the Lanterman Act) to provide services to persons with developmental disabilities, which does so through Regional Centers that are under the direct supervision and oversight of DDS. (W&IC §§4500 et seq., 4620)

186-30D ADDED 11/10
Consumers who are dissatisfied with the level of services provided by Regional Center may file for a state hearing under the Lanterman Act through the Office of Administrative Hearings to dispute the care provided by DDS and its Regional Centers. (W&IC §§4710, et seq.)

186-30E ADDED 11/10
"Alternative Residential Model" (ARM) rates are established to provide basic living needs to persons with developmental disabilities, for the purpose of assuring the availability of a continuum of community living facilities of good quality for such persons, and to insure that such persons placed out of home are in the most appropriate, least restrictive living arrangement. The management of ARM payments is assigned to the California Department of Developmental Services. (W&IC §4680)

186-30F ADDED 11/10
ARM facilities that also serve as the residence for the facility licensee, or of a member of the corporate board of directors, is deemed to be "owner operated." Those facilities that are not residences of the licensee or corporate board member, and licensees that employ personnel to provide direct care to consumers, are deemed to be "staff operated." (Title 17, §56901, subds. (27), and (38))

187-1 ADDED 11/10
Interstate Compact for the Placement of Children (as used in California):

The Interstate Compact on the Placement of Children (ICPC) is applicable between member states in establishing procedures for placing a child in a boarding or foster family home, or relative's home if conducted by an agency or Court in a member state. (§§31-510.1, .11, .111, .112)

187-1A
Under the provisions of the Interstate Compact on the Placement of Children, Article 5(a), the sending agency shall retain jurisdiction over the child, and shall continue to have financial responsibility for the support and maintenance of the child during the period of the placement. (Family Code §7901)

187-1B
Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article 5 thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of other state laws also may be invoked. (Family Code §7902)

187-1C ADDED 11/10
In the case of a child placed out of the State of California, the child shall be placed in any of the following:

(a) An appropriately licensed child care facility which accords the child the same personal rights accorded children as specified in Title 22 California Code of Regulations, Section 80072 [dignity, a safe and appropriate home, and free from corporal or unusual punishment or infliction of pain];

(b) A certified out-of-state group home; or

(c) An out-of-state group home which has not been certified by the Department, but which has been approved by the Compact Administrator. (§45-202.518(a), (b), and (c))

187-2 ADDED 11/10
A home study must be required for every proposed placement. The California sending agency shall not send a child out of state until it has received from the receiving state agency an ICPC 100A approved in writing and a home study assessing the amount of supervision available from the receiving agency; the ability of the community or area to meet any specials needs of the child; parental capabilities and problems if the plan involves movement of the family unit; and appropriate information concerning the family with whom placement is to be made. (§§31-510.33, .331, .332, .333, .334)

187-2A ADDED 11/10
Except for county agency's placement of a child in an out-of-state group home, the California-based agency shall comply with Family Code sections 7900 through 7909, and complete Sections I, II, and III of the Form ICPC 100A, the Interstate Compact Placement Request, retaining a copy in its files and forwarding 4 copies to the appropriate agency in the receiving state. The ICPC package shall also include court orders, copies of summaries of significant information on the child and the prospective foster or relative caregivers, and copies of financial and medical services plan, including information on the eligibility of the child for Title IV-E benefits. (§§31-510.3, .31, .32, .321, .322)

187-2B ADDED 11/10
The ICPC provides that the receiving agency shall notify the sending agency that it approves or disapproves of the plan, by completing Section IV of Form ICPC 100A within 30 days the form was received. (§31-510.34)

187-2C ADDED 11/10
Prior to placement, the sending agency shall assure a financial plan has been developed for the child and that the receiving agency agrees with the plan, understanding that this does not provide entitlement to public social services or aid payments for which the child is not otherwise eligible. (§31-510.35)

187-2D ADDED 11/10

Under the California Rules of Court: (1) “Placement” is defined in article II(d) of the compact. It includes placements with a stepparent, a grandparent, an adult brother or sister, an adult aunt or uncle, a non-agency guardian of the child, a placement recipient who is not related to the child, a residential institution, a group home, or a treatment facility.

(A) A court directing or making an award of custody to a parent of the child is not a placement within the meaning of this rule, unless the sending court retains dependency jurisdiction over the child or the order or award requests or provides for supervision or other services or places some other condition or restriction on the conduct of the parent.

(B) Except in cases in which a child is placed with a parent and jurisdiction has been terminated or in cases in which dependency is maintained only to provide services to or impose conditions on the noncustodial parent remaining in the sending jurisdiction, the following situations constitute a placement and the compact must be applied:

(i) An order causing a child to be sent or brought to another party in a compact jurisdiction without a specific date of return to the sending jurisdiction; or

(ii) An order causing a child to be sent or brought to another party in a compact jurisdiction with a return date more than 30 days from the start of the visit or beyond the ending date of a school vacation period.

(2) “Priority placement” means a placement or placement request made by a court with specific findings of one or more of the following circumstances:

(A) The proposed placement recipient is a relative belonging to a class of persons who, under article VIII(a) of the compact, could receive the child from another person belonging to such a class, without complying with the compact, if the child is not under the jurisdiction of the court, and if:

(i) The child is under two years of age;

(ii) The child is in an emergency shelter; or

(iii) The court finds that the child has spent a substantial period of time in the home of the proposed placement recipient.

(B) The receiving compact administrator has been in possession of a properly completed interstate compact placement request form and supporting documentation for over 30 business days, but the sending agency has not received a notice under article III(d) of the compact determining whether or not the child may be placed. (Calif. Rules of Court, §5.616(b))

187-2E ADDED 9/08

In determining whether a home study request is complete, counties and adoptions district offices should look to the date that the county or adoptions district office had all relevant documents and information necessary to initiate the home study.

This should be the date that the county or adoptions district office receives a completed

Interstate Compact on Placement of Children (ICPC) 100A form with all appropriate attachments and necessary information as defined in the instructions attached to the ICPC 100A and directed by the Division 31 regulations (MPP) Division 31-510.53 and Title 22, Division 2, Subchapter 9, ICPC, Sections 35401 through 35409.

(All County Letter 08-26, May 28, 2008)

187-2F ADDED 9/08
A state shall treat any home study report received from another state or an Indian tribe as meeting the requirements imposed by that state for the completion of a home study before placing a child. The only exception is if the requesting state makes a specific determination within 14 days of receipt of the report. There must be a determination that, based on grounds specific to the content of the report, placing the child in reliance on the report would be contrary to the welfare of the child. California has adopted this requirement in SB 703 at Family Code sections 7901.1 and 7906.5. If the county or adoptions district office makes this determination, it should document the circumstances. (All County Letter 08-26, May 28, 2008)

187-3 ADDED 9/08
The Safe and Timely Interstate Placement of Foster Children Act of 2006, enacted July 3, 2006, amended the Social Security Act to require that states:

1. Develop a process to ensure that foster care and adoptive home studies for children placed across state lines are completed within 60 calendar days and that the results are available to be reported to the federal government.

2. Establish a 14-day time frame for agencies to reject the foster or adoption home study done in another state for the purpose of placing a California child across state lines.

3. Ensure that caregivers have the right to be heard in any court proceeding.

4. Require the court to consider both in-state and out-of-state options in a variety of circumstances involving permanency planning decisions. These changes were intended to reduce the time a child waits in foster care before being placed into a foster or adoptive home. (All County Letter 08-26, May 28, 2008)

187-3A ADDED 9/08
As a result of Safe and Timely Interstate Placement of Foster Children Act, Senate Bill 703 added Family Code sections 7901.1 and 7906.5. These sections require that within 60 days after California receives a request from another state to conduct a study of a home environment

for purposes of assessing the safety and suitability of placing a child in the home, the county child welfare agency or adoptions district office shall:

1. Conduct and complete the home study.
2. Return to the requesting state a report of the results of the study which addresses the extent to which the placement would meet or not meet the needs of the child.

(All County Letter 08-26, May 28, 2008)

187-3B ADDED 9/08
Family Code sections 7901.1 and 7906.5 provide an exception to the timeline requirements for home studies conducted by counties on or before September 30, 2008. This exception applies if the county or adoptions district office is unable to meet the 60-day requirement because of circumstances beyond the control of the county or adoptions district office.

The exception will only apply, however, if the county or adoptions district office documents that the request for information was made at least 45 days before the end of the 60-day period, and the county or adoptions district office can certify that completing the home study is in the best interest of the child. In the event these criteria are met, the county or adoptions district office will have 75 days to complete the home study. **After September 30, 2008, this exception will no longer apply.**

(All County Letter 08-26, May 28, 2008)

187-3C ADDED
7/12On May 1, 2011, three regulations of the Interstate Compact for the Placement of Children (ICPC) were added or amended at the annual business meeting of the AAICPC, and these changes were made effective October 1, 2011. The state has ordered counties to follow these changes as of that date. The changes impact new Regulation No. 2 relating to court jurisdiction cases; the amended No. 3 providing definitions and placement categories; and, No. 7 discussing expedited placement decisions.

Regulation No. 2: Many of the provisions in this regulation had been placed in the former Regulation No. 3, which is now focused on definitions. The regulation mandates the sending agency provide additional information on the ICPC 100A request form, such as the number of bedrooms and people living in the destination home, in order to give further information to assist in the receiving agency's home study processing. The regulation mandates that a Safe and Timely Interstate Home Study Report completed no more than 60 days from the date the completed request (ICPC 100A) is received; and, the receiving agency's approval for placement resources cannot exceed 180 days.

Regulation No. 3: Delineates those placements that are, and are not, protected under the ICPC. The regulation designates four types of placement that are protected, including adoptions, licensed or approved foster homes, placements with parents and relatives (when the parent or relative is not making the placement), or placements into group homes, residential treatment centers (RTC), including juveniles under a delinquency jurisdiction (WIC 601, 602).

Placements without ICPC protection include placements by parents (without evidence of parental unfitness); courts making parental placements with courtesy checks; placements by private individuals; placements resulting from divorce proceedings, paternity or probate courts; or, placements by any other compact.

Regulation No. 7: Provides for rules relating to priority placements, with more restrictive time frames than provided in earlier regulations. Expedited placements are deemed to occur in the following scenarios: When an unexpected dependency occurs due to a sudden incarceration, incapacity, or death of a parent or guardian; placement is anticipated for a child aged 4 years or younger (including siblings that may be older); a court deems that a child in a sibling group has a substantial relationship with a placement resource; a child is currently in an emergency placement.

Expedited placements shall not be afforded in cases where: Children already placed in violation of the ICPC; the intent is to place the child in an already licensed or approved home; or, the court places the child with a parent from whom the child was not removed.

Judicial Council Form JV-567 will be amended to reflect the new rules relating to Expedited Placement Decisions (it is anticipated the form will be available January 1, 2013). The sending agency will have the option to request a provisional approval of the placement, which the receiving agency may approve or deny. In order for the sending agency to be afforded expedited processing, the sending agency must submit with its request a signed statement of interest from the placement resource with details on the home, financial resources, knowledge of the need for fingerprinting, etc.; and a report to the sending court on the request for expedited processing. The sending court must enter an Order of Compliance consistent with this regulation, and the sending agency must send the receiving state's Compact Administrator (C A) a copy of the order within two business days of the hearing, and a completed ICPC 100 A and 101 within three business days.

With 15 business days of receiving the packet from the receiving state's C A, the receiving agency shall return the completed home study to the receiving state's C A, and the C A shall issue to the sending state's C A the completed home study within 3 days, and in any event no more than 20 days from receiving the initial request from the sending state. (ACL No. 11-79, issued Nov. 21, 2011.)

187-4 ADDED 11/10
When a child is placed in a foster family home outside of the county, the county shall pay the commensurate rate of the host or receiving county; if the child is eligible to receive only a base rate, the host county's base rate will be paid by the county; if the child is eligible to receive a specialized care increment rate, the county shall pay its own specialized care increment if the host county has no specialized care system. (§11-401.4)

188-1 ADDED 11/10

No inter-county transfer is necessary when the first county places a child in a second county. The first county continues to be responsible for payment of aid. (§40-190.32)

188-2 ADDED 11/10
"Transfer-Out" and "Transfer-In" Processes: An entire Juvenile Court case may be transferred out of one county (transferring county) to another (transferee county), when a petition is filed in the Court of a county other than the residence of the person named in the petition; or, subsequent to the petition in the county of the child's residence, the residence of the person who would legally be entitled to the custody of such minor were it not for the existence of an order is changed to another county, the entire case may be transferred to the Court of the county wherein that person then resides at any time after the Court made a finding of facts upon which it exercised its jurisdiction over the child. The Court of the county wherein such person then resides shall take jurisdiction of the case upon the receipt and filing with it of such finding of facts and an order transferring the case. (W&IC §375 [dependent or ward children under §300], §750 [ward children under §602])

188-2A ADDED 11/10
Rules setting out "transfer-out" hearings permit, but do not require, a Court to transfer a case to the county where the child resides. Conversely, these rules also do not mandate a Court to transfer a case to the county where the parent resides. These two residency provisions provide alternative bases for transferring a juvenile case. The Court must consider the best interests of the child when it chooses between jurisdictions to manage the case. (*In re J.C.* (2002, 4th Dist.) 104 Cal.App.4th 984)

188-2B ADDED 11/10
The transferee county may not reject the "transfer-in" of the case, regardless of whether the transfer-in Court disagrees with the residency finding of the transferring county. (Calif. Rules of Court, Rule 5.612, subd. (a)(1); *In re Carlos B.* (1999, 3rd Dist.) 76 Cal.App.4th 50)

188-3 ADDED 11/10
The county child protection agency (county) has the duty to notify the transferee county in writing using state form FC 18 that it intends to transfer a foster care case to the transferee county, and to receive notification that the transfer intent was received, which the transferee county has a duty to provide. (§§40-188.111, .17, .25)

188-3A ADDED 11/10

The responsible county has the duty to provide the second county within seven working days from the date that the first county notifies the second county of a case transfer (per Section 40-188.11), with copies of the most recent: SAWS 1; FC 2/JA 2/KG2; SOC 158A; Birth Certificate/Alien Status; Social Security Number, FC 3/FC 3A; Voluntary Placement Agreement, Legal Guardianship Papers, or Court Order which establishes the authority for placement; Independent Living Plan; evidence supporting federal and/or state eligibility; and any other information necessary to determine eligibility. (§§40-188.13, .135)

188-4 ADDED 11/10
Immediately, the transferring county must inform the caregiver of his or her responsibility to apply for a redetermination of eligibility with the transferee county, providing the caregiver or legal guardian with the appropriate documentation to assist in this redetermination process. (§§40-188.121, .135)

188-5 ADDED 11/10
Regardless of where a foster care caregiver or legal guardian resides, that person shall consider the residency of his or her home in the county in which Juvenile Court has accepted a "transfer-in" case from another county. (§40-189.23)

188-6 ADDED 11/10
The responsibility for child welfare services case management for a child receiving Foster Care benefits shall transfer from the transferring to the transferee county. (§40-190.12)

188-7 ADDED 11/10
During the inter-county transfer period, there shall be no interruption (or overlap) of Foster Care benefits to the family. (§40-190.2)

188-8 ADDED 11/10
When a child is placed in a home located in a county different from the county with payment responsibility (responsible county), the responsible county will pay the basic rate of the host county. However, when a child is receiving an SCI and is placed in a home located in a responsible county, the responsible county will pay the host county's SCI, or pay its own SCI if the host county has no specialized care system. (§11-401)

188-9 ADDED 11/10

When a child in an AU is moved to FC, the effective date of AFDC-FC assistance is the date he/she is placed in an AFDC-FC eligible facility and is otherwise AFDC-FC eligible. (§44-317.622)

188-9A ADDED 11/10
When a child is transferring from AFDC-FC to AFDC-FG/U, or vice versa, but remains in the home of the same related caretaker, the effective date of program transfer is the first of the month following the request for change of program. (§44-317.623)