

**County of Orange Social Services Agency
Family Self-Sufficiency/Foster Care Program**

Program/Area: Foster Care

Title: Legal Guardians

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Approved:

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PURPOSE

The purpose of this policy is to provide guidelines for determining Foster Care funding eligibility criteria when a foster parent or relative caretaker becomes legal guardian.

POLICY

The following guidelines are developed from the premise that the non-parent caretaker was receiving either federal (42) or state (40) funded Aid to Families with Dependent Children-Foster Care (AFDC-FC) funds and legal guardianship was declared by a Juvenile Court.

The county that has juvenile court of jurisdiction of the child is the county with payment responsibility regardless of where the child is physically placed in or out of state.

For non-dependent, non-related legal guardian (NRLG) the county with payment responsibility is the county in which the NRLG resides.

DEFINITION

A guardian is the adult who is legally responsible for the needs of a minor/youth. You may only become a guardian in California by being appointed by the court.

The Legal Guardian is responsible for the child's daily "care and control", which includes making decisions related to the following but not limited to:

- Where the child attends school and/or child care
- Participation in extracurricular and/or recreational activities
- Medical and dental care services
- Claiming the child as a tax dependent
- Purchasing and maintaining the child's clothing

**RELATED LEGAL
GUARDIAN**

Related Legal Guardians (LGs) are potentially eligible to:

Federal AFDC-Foster Care:

- Dependency and services continue
- Home Assessment ([SOC 815](#)) or Resource Family Approval (RFA) licensing/Certificate (F063-25-774) requirements must continue to be met
- Adoption and Safe Family Act (ASFA) requirements must continue to be met every 12 months from the date the child

- entered Foster Care
- The court's finding in the Permanency Planning/Periodic Review minute orders must state to the effect that the county has complied by making reasonable efforts to finalize the permanency plan

Other Eligibility Requirements:

- LG must complete Reinvestigation process (RV) and sign page 4 of the FC2

CalWORKs/Approved Relative Caregiver (ARC) Program:

- If Dependency and services continue
- Not eligible to ARC if out of state placement (Refer to ARC Policy for eligibility information).

Related LGs Without Dependency are potentially eligible to:

CalWORKs:

- If dependency is dismissed
- Services continue

Kinship and Guardian Assistance Program (Kin-GAP):

Refer to [Kin-GAP Policy 702](#) for eligibility information.

Note: When Legal Guardianship is established utilize Worker Tool 11 to evaluate funding sources.

**NON-RELATED LEGAL
GUARDIAN**

Non-Related LGs are potentially eligible to:

Federal AFDC-Foster Care:

- Dependency and services continue
- Home Assessment ([SOC 815](#)) or Resource Family Approval (RFA) licensing/Certificate (F063-25-774) requirements must continue to be met
- Adoption and Safe Family Act (ASFA) requirements must continue to be met every 12 months from the date the child entered Foster Care
- The court's finding in the Permanency Planning/Periodic Review minute orders must state to the effect that the county has complied by making reasonable efforts to finalize the permanency plan

Note: If the NRLG's home is a State licensed foster home, a copy of the license is sufficient; a home assessment (SOC 815 or Resource

Family Approval (RFA Certificate) is not required.

State AFDC-Foster Care:

- Eligible to State AFDC-FC regardless of dependency status
- State cases with dependency - Home assessment approval (SOC 815) or Resource Family Approval (RFA) licensing/Certificate (F063-25-774) requirements must continue to be met

Note: Non-minors in juvenile court NRLG are not eligible for Extended Foster Care (EFC) placement options, including a Supervised Independent Living Plan (SILP). However, they may live in a dorm or other settings if needed in order to access education or employment opportunities, as long as the guardian continues to provide support of the non-minor. Generally the guardian will continue to receive the Foster Care payment unless the non-minor wants to be his/her own payee and is assessed and determined by the Senior Social Worker (SSW) to have met the conditions specified in the Eligibility Assistance Standards Manual section 45-301.214.

Other Eligibility Requirements:

- LG must complete Reinvestigation process (RV) and sign page 4 of the FC2
- No eligibility if non-related legal guardian moves out of state

Non-Related LGs Without Dependency are potentially eligible to:

State AFDC-Foster Care

- Case remains State-funded as long as the non-related legal guardian continues to receive services from the County of Orange Social Services Agency
- SSW is required to provide a home approval certification email at approval and at Reinvestigation (RRR). No [SOC 815](#) or Resource Family Approval (RFA) licensing/Certificate (F063-25-774) is required
- If NRLG moves out of Orange County, initiate an Inter County Transfer (ICT) to the appropriate California county

Other Eligibility Requirements:

- LG must complete Reinvestigation process (RV) and sign page 4 of the FC2
- No eligibility if non-related legal guardian moves out of state

Kinship and Guardian Assistance Program (Kin-GAP):

Refer to [Kin-GAP Policy 702](#) for eligibility information.

Note: NRLG whose guardianship determination was issued by a court of another state must obtain a guardianship order from a California court or by registering their guardianship order in a California court. NRLG is eligible for benefits on behalf of the child as of the date of registration or the date of application, whichever is later, assuming all other eligibility requirements are met.

Note: When Legal Guardianship is established utilize Worker Tool 11 to evaluate funding sources.

PROBATE GUARDIANSHIP

Legal Guardianship established through Probate court is a non-dependent, non-court involved guardianship.

- State-funded (except for relative)
- AB12 ineligible
- Guardian must reside in Orange County
- Initiate ICT if legal guardian moves to another county

Note: Non-dependent children turning 18 years old may continue to receive Foster Care State funding up to age 19 if they meet the high school completion rule and sign the SOC 155B, Mutual Agreement For 18 Years Old, in the month the youth attains 18 years of age. School letters are required.

COUNTY FUNDS

Child must be a dependent/ward of the Orange County Juvenile Court to be eligible to receive this funding.

Exception: For-Profit Facility.

REQUIRED FORMS

- Legal Guardian Checklist (Worker Tool 11)
- Placement Information Change (PIC) ([F063-28-301](#))
- Foster Child's Data Record and AFDC-FC Certification ([SOC158A](#))
- Approval of Family Caregiver Home ([SOC815](#))
- Resource Family Approval (RFA) Certificate of Approval (F063-25-774)
- Mutual Agreement For 18 Year Olds ([SOC 155B](#))
- Letter of Guardianship
- Minute Order with Court Granting Guardianship
- School Verification Letter (CalWIN Form-CSF 37)

REFERENCES

ACL 12-48, 14-28,17-82