Appendix B:
Fostering Connections Act
Guidelines & Resources

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Sample State Legislation Needed to Implement the Federal Kinship Guardianship Assistance Option Under Title IV-E of the Social Security Act

January 26, 2010

This sample legislation outlines the components that are required by the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 in order for a state or tribe to operate a federally supported kinship guardianship assistance program under Section 101 of that law. The italicized language is not clearly required under federal law or guidance but it is important in order to ensure that children fully benefit from the provisions. The sample legislation is a tool that policymakers, administrators and advocates can use as they develop and advocate for their states to take the option to operate a federally supported kinship guardianship program. It can be used as the basis for new legislation or as a tool to compare current statute or pending legislation with the federal requirements.

For additional information on these and other kinship requirements of the new law see: New Help for Children Raised by Grandparents and Other Relatives: Questions and Answers about the Fostering Connections to Success and Increasing Adoptions Act at www.childrensdefense.org/FCSIAAguide.

Child’s Eligibility

A child is eligible to receive guardianship assistance if the agency determines that all of the following apply:

(a) The child has been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that allowing the child to remain in the home would be contrary to the child’s welfare;

(b) OPTION 1: The child is eligible for federal foster care maintenance payments under Title IV-E of the Social Security Act while residing in the home of the prospective relative guardian for at least six consecutive months;

OPTION 2: The child has resided in the home of the prospective guardian for at least six consecutive months.

(c) Being returned home or adopted are not appropriate permanency options for the child;

(d) The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and

(e) If the child is age 14 or older, he or she has been consulted regarding the guardianship arrangement.

Eligibility may not be limited due to the age of a child under 18 years old or to a child’s special needs.

Even if siblings do not meet the eligibility requirements for kinship guardianship assistance payments listed above, siblings of an eligible child may be placed in the same relative guardianship arrangement if the department and the relative agree on the appropriateness of the arrangement for the sibling. Federally supported guardianship assistance payments may be made on behalf of each sibling so placed.

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1 The requirements are based on the federal law and existing guidance as of November 19, 2009.

2 The Fostering Connections to Success and Increasing Adoptions Act requires a child to be eligible under Title IV-E in order to receive federal reimbursement for kinship guardianship assistance. Option 1 would require this for a child to be eligible under the state program as well. However, in states that plan to make all children eligible for guardianship assistance (and pay for the non IV-E children with state dollars), option 2 would accomplish that.
Guardian’s Eligibility

A guardian who meets all of the following criteria may receive guardianship assistance on behalf of an eligible child:

(a) The guardian is the eligible child’s relative;³

(b) The guardian is a licensed foster parent and approved for guardianship assistance by the department after the guardian has undergone fingerprint-based criminal record checks and child abuse and neglect registry checks and all adults in the guardian's home have undergone child abuse and neglect registry checks;

(c) The eligible child has resided with the prospective relative guardian in the prospective guardian’s residence for at least six months;

(d) The guardian has a strong commitment to caring permanently for the child; and

(e) The guardian has obtained legal guardianship of the child after the guardianship assistance agreement has been negotiated and finalized with the department.

Guardianship Assistance Agreement Requirements

The child welfare agency must negotiate and enter into a written, binding guardianship assistance agreement with the prospective relative guardian and must provide a copy of the agreement to the prospective relative guardian prior to guardianship being awarded.

The guardianship agreement must specify:

(a) The amount of the guardianship assistance to be provided under the agreement for each eligible child and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child;

(ii) The guardianship assistance payment must not exceed the foster care maintenance payment that would have been paid on that child’s behalf if he or she had remained in a foster family home.

(ii) Adjustments must be made to the payment rate to accommodate a child’s special needs.

(b) The additional services and assistance that the child and relative guardian will be eligible for under the agreement;

(c) The procedure by which the relative guardian may apply for additional services as needed and a description of those services;

(d) The department will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed $2,000;

(e) The guardianship assistance agreement shall remain in effect without regard to state residency of the relative guardian; and

(f) The child retains eligibility for federal adoption assistance if the guardian later decides to adopt the child.

³ The law does not define relative or require the state to define relative. If a state chooses to define relative, it could define relative as a person related by blood, marriage or adoption or a godparent or family friend with whom the child has a close relationship.
**Case Plan Requirements**

For a child whose permanency plan is placement with a relative and receipt of guardianship assistance payments, the department must include a description of all of the following in the child’s case plan:

(a) The steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;

(b) The reasons for any separation of siblings during placement;

(c) The reasons why a permanent placement with a fit and willing relative through a guardianship assistance arrangement is in the child’s best interests;

(d) The ways in which the child meets the eligibility requirements for a guardianship assistance payment;

(e) The efforts the agency has made to discuss adoption by the child’s relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefore;

(f) The efforts the agency has made to discuss the importance of selecting a successor guardian; and

(g) The efforts made by the agency to discuss with the child’s parent or parents the guardianship assistance arrangement, or the reasons why efforts were not made and documentation of the reasons therefore.

**Court Jurisdiction**

NOTE: An issue not addressed in this sample legislation is court jurisdiction. It will be important to consider the role of the state court in developing legislation to ensure the court process facilitates permanency decisions for children and awarding guardianships that will be beneficial for the children. To that end, the following should be considered:

- The court making the permanency decision for the child should review the case plan requirements listed above and make a written finding on the adequacy of the child’s case plan and adherence of that plan to the case plan requirements.
- Whenever possible, the same court making permanency decisions for the child should have jurisdiction to grant the legal guardianship and review petitions to change the legal guardianship.
- If the permanency court does not have jurisdiction to also consider the petition for legal guardianship, the permanency court’s finding on the adequacy of the plan should be provided to the judge presiding over the petition for legal guardianship.
- States should grant the court jurisdiction to review the agency’s determinations and/or the guardianship assistance agreement by requiring the agency to include a description of their determinations and/or the agreement in the petition for guardianship.
- Language should be included in a court order granting a petition for guardianship that (1) describes the procedures for modifying the guardianship arrangement, (2) specifies plans for visitation between the child and parent/s, (3) specifies plans for visitation between the child and any siblings not living with the child, and (4) the name of the successor guardian or a statement that no successor has been determined.

This document was prepared in collaboration with the American Bar Association Center on Children and the Law, ChildFocus, Children and Family Research Center - School of Social Work at University of Illinois at Urbana-Champaign, CLASP, Generations United, and the National Center for State Courts.
Sample State Legislation to Extend Foster Care, Adoption and Guardianship Protections, Services and Payments to Young Adults Age 18 and Older

June 2010

American Bar Association Center on Children and the Law
Center for Law and Social Policy
Children’s Defense Fund
Juvenile Law Center
AUTHORS AND ACKNOWLEDGEMENTS

**American Bar Association Center on Children and the Law**
The American Bar Association’s Center on Children and the Law and Commission on Youth at Risk, in partnership with Casey Family Programs and the Eckerd Family Foundation, started the Bar-Youth Empowerment Project, focused on transitioning youth. The project aims to improve outcomes for youth currently in foster care as well as young people who have aged out of care by promoting youth participation in court cases that affect them and ensuring access to legal counseling and representation to youth in need of specialized legal assistance. For more information, please contact Kristin Kelly at kellyk@staff.abanet.org or Andrea Khoury at khourya@staff.abanet.org.

**Center for Law and Social Policy**
CLASP's mission is to develop and advocate for policies at the federal, state and local levels that improve the lives of low income people. In particular, we seek policies that work to strengthen families and create pathways to education and work. CLASP's child welfare work seeks to prevent child abuse and neglect and to ameliorate the trauma experienced by children who are maltreated. We promote policies that empower parents to care for their children when possible and provide alternative, loving homes for children whose parents cannot care for them. For more information on Fostering Connections, contact Tiffany Conway Perrin at tconwayperrin@clasp.org or (202)906-8026.

**Children’s Defense Fund**
The Children’s Defense Fund Leave No Child Behind® mission is to ensure every child a Healthy Start, a Head Start, a Fair Start, a Safe Start and a Moral Start in life and successful passage to adulthood with the help of caring families and communities. CDF provides a strong, effective and independent voice for all the children of America who cannot vote, lobby or speak for themselves. We pay particular attention to the needs of poor and minority children and those with disabilities. CDF educates the nation about the needs of children and encourages preventive investments before they get sick, drop out of school, get into trouble or suffer family breakdown. CDF began in 1973 and is a private, nonprofit organization supported by foundation and corporate grants and individual donations. We have never taken government funds. For more information about Fostering Connections, please contact Beth Davis-Pratt at edavis-pratt@childrensdefense.org.

**Juvenile Law Center**
Founded in 1975 as a non-profit legal service, Juvenile Law Center (JLC) is one of the oldest multi-issue public interest law firms for children in the United States. In its Transitions to Adulthood work, JLC promotes policies and practices that are informed by the latest research on adolescent development and research which confirms every child’s need for healthy attachments to caring and consistent adults in their lives. JLC is working with the child welfare and juvenile justice systems to aid older youth in their transition out of these public systems that have supported them, and into successful, stable, healthy, and productive lives as adults in the community. For more information, please contact Jennifer Pokempner at JPokempner@jlc.org.

The authors sincerely thank the following individuals who contributed significant time and expertise in the development of this document: Dennis Blazey, Emily Buss, Kate Egbert, Adrienne Fernandes-Alcantara, Miriam Krinsky, Michael Piraino, and Erik Pitchal.

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2 This sample legislation focuses on children and young adults in the dependency system. However, because many states claim IV-E reimbursement for children in the delinquency and status offense systems, states wishing to extend care beyond age 18 for these populations should consider the applicability of these provisions, especially as they relate to IV-E eligibility for children other than those in dependency cases.
PART I - INTRODUCTION

On October 7, 2008, the *Fostering Connections to Success and Increasing Adoptions Act* (Public Law 110-351) was signed into law. Unanimously passed by both houses of Congress, Fostering Connections represents the most significant child welfare reform legislation in more than a decade. The act’s numerous improvements are intended to achieve better outcomes for children and young adults who are at risk of entering or have spent time in foster care. Fostering Connections promotes, among other things, extension of foster care, adoption and guardianship beyond age 18; permanent families for children; important links to family; sibling connections; educational stability and coordinated health planning; expanded protection and supports for American Indian children; and new training opportunities for a broad group as individuals working with children and young adults involved with the child welfare system. A number of important provisions in Fostering Connections are designed to positively impact the lives of, and outcomes for, older children and young adults in foster care and those transitioning out of care. The new law recognizes important steps that are needed to meet the needs of older children and young adults as they prepare to leave foster care. Congress heard from young people who were alumni of foster care, from states that are responding to the needs of older youth in care, and from researchers who have documented the benefits to youth who stay in foster care longer and have improved their chances of success when they leave care.

Fostering Connections presents an unprecedented opportunity to provide care and support to young adults who are in foster care or who exited foster care to guardianship or adoption. Beginning October 1, 2010, under the act, states have the option to amend their Title IV-E state plans to claim federal funds for young adults in foster care beyond their 18th birthday, or for those who exited foster care after age 16 to guardianship or adoption, to age 19, 20, or 21. With limited exceptions, states can currently only claim federal assistance for children up to their 18th birthday. States will be federally reimbursed for those young adults who are eligible for IV-E maintenance payments3 and who are:

- Completing secondary education or in a program leading to an equivalent credential;
- Enrolled in an institution that provides post-secondary or vocational education;
- Participating in a program or activity designed to promote, or remove barriers to, employment;
- Employed for at least 80 hours per month; or
- Incapable of doing any of the activities described above due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

For young adults in foster care, this extension should be used by states as additional time to identify a permanent family, and to provide the young adult with the services, supports, and skills needed to transition successfully to adulthood. The extension of guardianship and adoption support provides important options for young adults, allowing them to pursue the most

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3 To be eligible for IV-E reimbursement, the child must meet all eligibility requirements under Title IV-E of the Social Security Act for foster care, including removal from an income-eligible home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child.
appropriate permanency option without having to make the difficult choice between permanency and needed assistance.

Fostering Connections also requires that, in the 90-day period immediately before a child turns 18 (or 19, 20 or 21 as the state may elect), a caseworker and any other appropriate individuals work with him or her to develop a personalized transition plan that is as detailed as the child chooses. The plan must include specifics on housing, health insurance, education, local opportunities for mentors and continuation of support services, workforce supports and employment services. This transition plan is required for all children and young adults for whom foster care maintenance payments are being made. Children and young adults who have returned home or for whom kinship guardianship assistance or adoption assistance payments are being made must also have a transition plan if they are receiving Chafee Program benefits or services. These provisions build on the good work that has long been underway in a number of states. Prior to Fostering Connections, a number of states provided some measure of services and supports to young adults in, or who had been in, foster care.

Like many of their counterparts in the general population, few young adults in foster care are prepared to support themselves at age 18. Approximately half of all young people between the ages of 18 and 24 still live with their parents, and most rely on their parents for some financial support until they are well into their twenties. But, such support is often unavailable to young adults who age out of foster care. Instead, they often report being told, on the morning of their 18th birthdays, that they must leave their foster homes. Two major studies – the Midwest Evaluation of the Adult Functioning of Former Foster Youth and California’s Fostering Connections to Success Act and the Costs and Benefits of Extending Foster Care to 21 – have examined the impact of extending foster care to young adults older than 18. They found that, compared to those who age out of foster care, young adults age 18 and older who remain in care are better off, as is society. There may be fiscal benefits realized for states that extend support to


5 Currently, limited research or data exists on outcomes for young adults previously in the foster care system. Beginning on October 1, 2010, states must begin collecting data for the National Youth in Transition Database (NYTD). NYTD will collect case-level information on youth in care including the services paid for or provided by the state agencies that administer the Chafee Foster Care Independence Program (CFCIP), as well as the outcome information on young adults who are in or who have aged out of foster care. This is an important opportunity to gain much-needed information about this population and evaluate the programs and services needed to support positive transitions to adulthood.

young adults age 18 and older. For example, extended support can reduce incarceration and reliance on public assistance, and increase positive outcomes, like higher education completion and enhanced employability, which can create concrete fiscal benefits.

**How to Use this Sample Legislation**

This sample legislation is a tool that state policymakers, administrators and advocates can use as they advocate for and develop legislation to extend support to young adults beyond age 18 in response to Fostering Connections. It can be the basis for new legislation or help in evaluating current state laws or pending legislation.

This sample legislation takes full advantage of the federal support offered by Fostering Connections in two key areas. First, though Fostering Connections allows states to extend care to age 19, 20 or 21, this sample legislation assumes that care and support would be extended to age 21. Second, the act permits states to extend foster care, adoption assistance, kinship guardianship assistance or any combination of the three to age 19, 20 or 21. This sample legislation extends all three forms of assistance to age 21. This sample legislation also goes beyond Fostering Connections in critical areas affecting young adults. It extends care and support to all young adults up to age 21, regardless of IV-E eligibility whereas Fostering Connections provides federal support only for those young adults who are IV-E eligible. It also gives young adults age 18 and older the option to re-enter care after exiting, even though it is not clear that federal support would be available to them.

The remainder of the sample legislation is consistent with the requirements in Title IV-E of the Social Security Act (Title IV-E), as amended by Fostering Connections. However, recognizing that the provisions in Fostering Connections do not by themselves make for a coherent state law, additional language was needed to flesh out policies regarding case plans, transition plans and court oversight. Where possible, language used is precisely what is required by Fostering Connections. However, in some instances the sample legislation includes additional detail that, while not required under the new law, creates sound policy that incorporates best practice. Departures from the letter of the law are clearly identified in the commentary.

This sample state legislation provides states with language to:

- Extend foster care, guardianship and adoption assistance for young adults to age 21;
- Make the most of federal support available under Fostering Connections to free up state and local funding to offer young adults additional supports;

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Functioning of Former Foster Youth. Archives of Pediatric Medicine 161 no. 10 (2007). [http://archpedi.amaassn.org/cgi/content/full/161/10/986](http://archpedi.amaassn.org/cgi/content/full/161/10/986).

For more information about the fiscal advantages for states extending assistance to young adults past age 18, see the National Foster Care Coalition’s “Frequently Asked Questions on the Provisions Designed to Impact Older Youth” at [www.nationalfostercare.org](http://www.nationalfostercare.org).

Throughout this document, the term “IV-E eligible” means that a child or young adult qualifies for IV-E reimbursement by fulfilling the requirements for federal foster care, adoption assistance, or guardianship assistance. For a complete description of these eligibility requirements, please see Appendix A.

Throughout this document, “Title IV-E” or “IV-E” refers to the programs and requirements under the Social Security Act that encompass federal foster care, guardianship and adoption assistance.
• Extend care and support to young adults who are not IV-E eligible;\textsuperscript{10}
• Embed in statute best practices derived from research, policy, and existing programs that support permanent families and better outcomes for young adults while they are in and after they exit care; and
• Extend required court oversight for young adults in foster care beyond age 18.

The sample legislation is provided without commentary on pages 6-14. The sample legislation paired with detailed commentary is available on pages 15-33.
PART II – SAMPLE LEGISLATION

ARTICLE 1. GENERAL PROVISIONS

SECTION 101. SHORT TITLE
This “Sample State Legislation to Extend Foster Care, Adoption and Guardianship Protections, Services and Payments to Young Adults Age 18 and Older” is herein referred to as “sample legislation” or “legislation.”

SECTION 102. DEFINITIONS
For the purposes of this legislation:
1. “Administrative review” means a review open to the participation of the child or young adult and the parents, guardians, or other caretakers of the child, unless a court determines participation is not in the best interests of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or young adult or the parents who are the subject of the review, and which is equivalent to the review in which issues are addressed at permanency hearings required by 42 U.S.C. § 675(5)(C).
2. “Child” means an individual who has not attained 21 years of age.
3. “Department” means the state, county, or tribal agency responsible for rendering child welfare services.
4. “Dependency” means the basis for jurisdiction by a state, local or tribal court that encompasses civil protection and oversight of a child who has been found to be abused, neglected, or abandoned, or who has otherwise been found dependent upon Department care and support, or who has been placed in Department care through a voluntary placement agreement executed by a parent or legal guardian.
5. “Fostering Connections” refers to the federal Fostering Connections to Success and Increasing Adoptions Act, Public Law 110-351.
6. “Independent living agency” means a non-profit organization with expertise in the placement and supervision of young adults that meets any relevant licensing requirements of the state and that is operating under contract with the Department to provide placement, case management and supervision services to young adults in foster care. Primary responsibility for the young adults remains with the Department, but those responsibilities can be carried out under contract with appropriate private non-profit service providers.
7. “Independent Living Plan” means a written description of the programs and services which will help a child or young adult prepare for the transition from foster care to independent living as described in 42 U.S.C. § 675(1)(D) and Section 401(b) of this Sample Legislation.
8. “Juvenile court” means any court having dependency jurisdiction.
9. “Medical Condition” means a mental, physical, or emotional condition, including cognitive impairment or addiction.
10. “Supervised setting in which the individual lives independently” means a living arrangement, approved by the Department or an “independent living agency” where the individual lives independently, but in which he or she is provided supervision, case management and supportive services by the Department or “independent living agency” that offer
developmentally appropriate freedom and responsibility to prepare him or her for adulthood.
To approve a setting the Department or “independent living agency” must ensure that:
a. Young adults are provided with a level of supervision commensurate with their individual needs, as assessed by the Department or “independent living agency,” consistent with the young adult’s medical treatment plan, including physical, mental health, and substance abuse treatment plans; permanency plan and independent living goals. Less than 24 hour on-site supervision is permitted, however, 24 hour crisis intervention and support must be available.
b. All requirements related to the case plan as established in 42 U.S.C. § 675(1), including the transition plan, and the case review system established in 42 U.S.C. § 675(5) and its required continued pursuit of permanency consistent with the permanency goal, are satisfied and integrated with the goals of the supervised setting in which the individual lives independently.
c. Young adults living independently in supervised settings are offered, at a minimum, supportive services in: life skills instruction and counseling; educational support and progress; employment preparation and placement; development and maintenance of support networks, including family; health and wellness; and housing search and placement. The determination of what services will be provided and for how long will be based on the young adult’s assessed needs, interests, and input and will be consistent with the goals set in the young adult’s case plan. Acceptance of supportive services beyond those required in section 202 by the young adult shall not be considered a condition of eligibility for placement or continuation in a supervised setting in which the individual is living independently. Provision and delivery of supportive services shall be in coordination with the local Independent Living Program.
d. Approved living settings are in compliance with all state or local health and housing codes. Approved living settings do not have to be contracted with or in the legal control of the Department or independent living agency providing supervision, case management, or supportive services, however, responsibility for the young adult remains with the Department.

11. “Transition Plan” means a personalized plan developed at the direction of a child or young adult, with the assistance and support of a caseworker and, as appropriate, other representatives of the child or young adult as described at 42 U.S.C. § 675(5)(H) and Section 402 of this Sample Legislation.
12. “Young adult” means a child who has attained 18 years of age but who has not attained 21 years of age.

ARTICLE 2. EXTENSION OF CARE

SECTION 201. ADOPTION AND GUARDIANSHIP ASSISTANCE SHALL BE EXTENDED TO AGE 21 FOR ELIGIBLE YOUNG ADULTS
With respect to a young adult for whom an adoption assistance or kinship guardianship agreement is executed after the young adult attained 16 years of age or older, the Department shall continue making adoption and guardianship assistance payments on behalf of that young adult until age 21.
SECTION 202. FOSTER CARE SHALL BE EXTENDED TO AGE 21

1. Unless care and responsibility are terminated pursuant to Sections 203 or 204, the Department shall retain care and responsibility for a young adult in foster care between the ages of 18 and 21 if that young adult is:
   a. Completing secondary education or a program leading to an equivalent credential;
   b. Enrolled in an institution which provides post-secondary or vocational education;
   c. Participating in a program or activity designed to promote, or remove barriers to, employment;
   d. Employed for at least 80 hours per month; or
   e. Incapable of doing any of the activities described in subclauses a. through d. due to a medical condition, which incapability is supported by regularly updated information in the case plan of the young adult.

2. A juvenile court shall, except as provided in Sections 203 and 204, retain jurisdiction over a young adult in foster care between ages of 18 and 21 if the court assumed jurisdiction over the young adult before his or her 18th birthday.

3. Nothing in this statute shall abrogate any responsibilities of the Department or the court on behalf of the young adult, including the protections required under Section 303, or responsibilities of the young adult under state or federal law or regulation.

SECTION 203. TERMINATION OF CARE—GENERAL PROVISIONS

1. The extended jurisdiction of the court and continued care and responsibilities of the Department provided for in Section 202 terminate on the earliest of:
   a. The date the young adult knowingly and voluntarily withdraws consent as set forth in Section 204;
   b. The young adult exits foster care to a permanent home consistent with his or her permanency plan; or
   c. The young adult’s 21st birthday.

2. Notwithstanding the foregoing, the court shall not terminate its jurisdiction until it finds, following a hearing held after notice to all parties, that:
   a. The Department has complied with the provisions of Section 402; or
   b. The young adult has attained the age of 21 and despite ongoing reasonable efforts on the part of the Department to provide him or her services and inform him or her of the right to remain in care beyond age 18, the young adult has not participated in the development of the Transition Plan under Section 402.

SECTION 204. VOLUNTARY TERMINATION OF CARE

1. If the young adult withdraws consent to extended court jurisdiction and continued care and responsibility by the Department under Section 202, a court hearing must be held before court jurisdiction can be terminated and before the Department may close its case.

2. At the hearing, the following criteria must be met before court jurisdiction can be terminated and before the Department may close its case:
   a. Attendance of the young adult’s attorney at the hearing; and
   b. Attendance of the young adult at the hearing; or
   c. Findings by the court that:
      i. The young adult has been informed by his or her attorney of his or her right to attend the hearing and has provided written consent to waive this right;
ii. The young adult has been informed of the potential negative effects of terminating care early, the option to re-enter care before reaching age 21, the procedure and limitations on re-entering care, the availability of aftercare services, and that the young adult has signed a document attesting that he or she has been so informed and understands these provisions, and

iii. The Department has complied with Section 402.

3. All provisions under Section 304 shall apply to hearings under this Section.

SECTION 205. OPPORTUNITY TO RE-ENTER CARE
1. A young adult who exited foster care at or after reaching his or her 18th birthday, but before reaching age 21, may petition the court to resume dependency jurisdiction and the Department to re-open its case. The court shall resume jurisdiction and the Department shall re-open the case if the young adult is engaged in the activities described in Section 202(1).

2. The Department shall create a clear and developmentally-appropriate notice discussing the rights of young adults’ who were formerly in foster care to services under this sample legislation. The notice shall include information about what services they will be eligible for and how such services may be obtained. The Department shall disseminate this information to all young adults in foster care at their last court review before exiting care as described in Section 302 and at the hearing on their petition to resume dependency jurisdiction as described in this section.

ARTICLE 3. COURT SUPERVISION

SECTION 301. LEGAL REPRESENTATION AND CASA ADVOCACY FOR THE YOUNG ADULT IN HIS OR HER DEPENDENCY CASE
1. All young adults shall be appointed an attorney who has received training appropriate to the role, and who has adequate time and resources to provide effective legal representation in the proceeding.

2. The attorney’s representation of the young adult shall be client directed, and the attorney shall be bound by the state’s Rules of Professional Responsibility.

3. The attorney shall protect the young adult’s legal rights and vigorously advocate for the young adult’s wishes and goals, including assisting the young adult as necessary to ensure that the young adult receives the services required under this sample legislation.

4. For young adults who were appointed a guardian ad litem (GAL) attorney before age 18, appointment may be continued but under a client directed model of representation.

5. If the young adult re-enters care under Section 204 and does not have an attorney, the court shall appoint one for the young adult.

6. In addition, the judge has discretion to appoint a court appointed special advocate (CASA volunteer), or continue the appointment of a CASA volunteer, with the young adult’s consent.

SECTION 302. LAST COURT REVIEW PRIOR TO CHILD TURNING 18
1. During the last review hearing before the child turns 18, the court shall:
   a. Address whether the child plans to remain in foster care, and if so, ensure the child’s transition plan includes a plan for meeting one or more of the criteria listed in Section 202(1); and
b. Ensure the child has been informed of:
   i. The right to request termination of dependency jurisdiction and discharge from the Department’s care;
   ii. The right to continued services, which include the Department’s obligations under Sections 202, 401 and 402; and
   iii. The opportunity to re-enter care in accordance with Section 205.

c. If the young adult requests termination of dependency jurisdiction and discharge from the Department’s care, the court shall ensure the young adult has been informed of:
   i. Any services or benefits for which the young adult may be eligible based on being formerly in the care and custody of the Department including, but not limited to, services or benefits available under the Chafee Foster Care Independence Act, 42 U.S.C.§ 677;
   ii. Any services or benefits that may be lost through termination of dependency jurisdiction; and
   iii. Any other federal, state, local, tribal or community-based services or supports available to the child.

SECTION 303. PERIODIC REVIEWS FOR YOUNG ADULTS
With respect to any young adult who receives continued care from the Department at or after age 18 under Sections 202 and/or 205, the state shall ensure that:
1. A case review system is in place that includes:
   a. Judicial findings regarding:
      i. The status of the issues described in 42 U.S.C. § 675 (5)(A), (D), (E), (G) and (H); and
      ii. Whether reasonable efforts have been made to place siblings together unless the state documents that such a joint placement would be contrary to the safety and well being of any of the siblings, and in the case of siblings who are not jointly placed, a detailed plan for how ongoing frequent visitation or interaction will be achieved unless it is found that frequent visitation or interaction would be contrary to the safety and well being of any of the siblings.
   b. The frequency and mechanism for review described in 42 U.S.C. § 675 (5)(B),
   c. The procedural protections described in 42 U.S.C. § 675 (5)(C), including that in all permanency hearings or hearings regarding the transition of the young adult from foster care to independent living, that the court or administrative body consults, in an age-appropriate manner, with the young adult regarding the proposed permanency or transition plan for the young adult; and
   d. Any other procedural protections that apply to children under 18 under existing state or tribal law.
2. The court maintains oversight to ensure the Department is coordinating with the appropriate agencies, and, as otherwise permitted, maintains oversight of other agencies involved in implementing the young adult’s case plan, including the independent living plan and, when applicable, the transition plan.
3. The Department prepares and presents to the court a report, developed in collaboration with the young adult, addressing the young adult’s progress in meeting the goals in the case plan, including the independent living plan and transition plan, when applicable, and shall propose modifications as necessary to further those goals.
4. The court determines whether the Department and any service provider under contract with the Department is providing the appropriate services as provided in the case plan including the independent living plan, and when applicable, the transition plan.
   i. If the court believes that the young adult is entitled to additional services to achieve the goals enumerated in the case plan, under the Department’s policies, or under a contract with a service provider, the court may order the Department to take action to ensure that the young adult receives the identified services.

5. The young adult or any other party to the dependency case can request an additional hearing or review.

SECTION 304. RIGHTS OF THE YOUNG ADULT
1. Nothing in this sample legislation shall be construed to abrogate any other rights that a person, who has attained 18 years of age, may have as an adult under state law.
2. Young adults have a right to:
   a. Receive notice of case and permanency plan meetings, team decision-making meetings, administrative reviews, court hearings, and any other case-related proceedings or meetings;
   b. Be involved in the development of a personalized transition plan as described in Section 402;
   c. Be present and address the court;
   d. Legal representation as described in Section 302; and
   e. Any other privileges afforded to parties to dependency proceedings under state or tribal law.
3. If the young adult is not present at any hearing, the court shall make a finding as to whether the young adult was given notice and made an informed decision not to attend, in order to proceed with the hearing, or postpone the hearing until the young adult may attend.

ARTICLE 4. PROGRAM STRUCTURE

SECTION 401. SERVICES THAT SHALL BE PROVIDED TO THE YOUNG ADULT
1. The Department shall revise the written case plan for each young adult in foster care, after consultation with the young adult to ensure it includes at least the following:
   a. A description of the type of foster family home, institution or “supervised setting in which the individual lives independently,” in which a young adult is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the young adult plans to carry out the voluntary placement agreement entered into, or judicial determination made, with respect to the young adult in accordance with 42 U.S.C. § 672(a)(1) and
   b. A plan for assuring that the young adult receives safe and proper care and that services are provided to the young adult, parents, and foster parents in order to improve the conditions in the parents’ home, facilitate return of the young adult to his own safe home or the permanent placement of the young adult, and address the needs of the young adult while in foster care, including a discussion of the appropriateness of the services that have been provided to the young adult under the plan.
   c. Documentation of the reasonable efforts that have been made to place siblings together, or documentation that such a joint placement would be contrary to the safety and well
being of any of the siblings; and in the case of siblings who are not jointly placed, a
detailed plan for how ongoing frequent visitation or interaction will be achieved or
documentation that frequent visitation or interaction would be contrary to the safety and
well being of any of the siblings. This documentation shall be updated in accordance with
the review and updating of the case plan.

d. The health and education records of the young adult, including the most recent
information available regarding:
i. The names and addresses of the young adult’s health and educational providers;
ii. The young adult’s grade level performance;
iii. The young adult’s school record;
iv. A record of the young adult’s immunizations;
v. The young adult’s known medical problems;
vi. The young adult’s medications; and
vii. Any other relevant health and education information concerning the young adult
determined to be appropriate by the Department.
e. A written description of the programs and services that will help the young adult prepare
for the transition from foster care to independent living, including, but not limited to,
documentation that assistance has been provided to:
i. Complete applications for health insurance, including applications for Medicaid;
ii. Obtain referrals for, apply for, and obtain safe, stable, and age appropriate housing;
iii. Maintain relationships with individuals who are important to the young adult,
including searching for individuals with whom the young adult has lost contact;
iv. Access information about maternal and paternal relatives including any siblings,
unless contrary to the safety and well-being of the young adult;
v. Obtain employment or other financial support;
vi. Obtain a government issued identification card;
iiii. Obtain a written description of the programs and services that will help the young adult prepare
vii. Open and maintain a bank account;
for the transition from foster care to independent living, including, but not limited to,
viii. Obtain appropriate community services and programs including health, mental health,
developmental disability, and other disability services and supports; and, where
appropriate:
ix. Satisfy any juvenile justice system requirements and assist with expunging the young
adult’s juvenile’s record;
x. Complete secondary education;
xi. Apply for admission and aid for postsecondary educational or vocational programs;

xii. Obtain the necessary state court findings and then apply for Special Immigrant
Juvenile Status, or apply for other immigration relief that they may be eligible for,
including achievement of citizenship status;
xiii. Create a health care power of attorney as required by P.L. 111-148;
xiv. Apply for any public benefits or benefits that he or she may be eligible for or may be
due through his or her parents or relatives, including but not limited to TANF, SSI,
SSDI, Survivor’s Benefits, WIC, Food Stamps, LIHEAP; and, if applicable,
xv. Assist with applying for a legal name change.

f. In the case of a young adult whose permanency plan is adoption or placement in another
permanent home, documentation of the steps the Department is taking to find an adoptive
family or other permanent living arrangement for the young adult to place him or her
with an adoptive family, a fit and willing relative, a legal guardian, or in another planned
permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include young adult-specific recruitment efforts such as the use of State, regional and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-state or interstate placements and intensive family finding efforts designed to facilitate connections with adult relatives or others with a significant relationship to the young adult.

g. In the case of a young adult with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under 42 U.S.C. § 673(d), a description of:
   i. The steps that the agency has taken to determine that it is not appropriate for the young adult to be returned home or adopted;
   ii. The reasons for any separation of siblings during placement;
   iii. The reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the young adult’s best interests;
   iv. The ways in which the young adult meets the eligibility requirements for a kinship guardianship assistance payment;
   v. The efforts the agency has made to discuss adoption by the young adult’s relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefore; and the efforts made by the Department to discuss with the young adult’s parent or parents the kinship guardianship assistance arrangement, or the reasons why those efforts were not made.

h. A plan for ensuring the educational stability of the young adult while in foster care, including:
   i. Assurances that the placement of the young adult in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the young adult is enrolled at the time of placement; and
   ii. If the young adult has not completed secondary education, an assurance that the Department has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the young adult remains in the school in which the young adult is enrolled at the time of placement; or
      a. If remaining in such school is not in the best interests of the young adult, assurances by the Department and local educational agencies that they will provide immediate and appropriate enrollment in a new school, with all of the educational records of the young adult provided to that school.

SECTION 402. TRANSITION PLAN
During the 90-day period immediately prior to the date on which the young adult in foster care will attain 21 years of age, or the date on which a child or young adult will exit foster care pursuant to Section 203 or 204, whether during that period foster care maintenance payments are being made on the child or young adult’s behalf, or the child or young adult is receiving benefits or services under 42 U.S.C. § 677, a caseworker on the staff of the Department shall:

1. In collaboration with, as appropriate, other representatives of the child or young adult, provide the child or young adult with assistance and support in developing a transition plan that is personalized at the direction of the child or young adult, and that includes specific...
options for the child or young adult on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services, and that assists the child or young adult in applying for Special Immigrant Juvenile Status or other appropriate immigration relief and citizenship status, if necessary, and that this plan is as detailed as the child or young adult may elect and ensures that the child or young adult has permanent adult connections;

2. Provide the child or young adult with the following documentation:
   a. Copy of the child’s or young adult’s credit report;
   b. Copy of the child’s or young adult’s social security card;
   c. Certified copy of the child’s or young adult’s birth certificate;
   d. Copy of the child’s or young adult’s driver’s license or government issued ID card;
   e. Letter including the dates that the child or young adult was within jurisdiction of the court;
   f. Letter including a statement that the child or young adult was in foster care, in compliance with financial aid documentation requirements;
   g. The child’s or young adult’s entire educational records, obtained through a court order if necessary;
   h. The child’s or young adult’s entire health and mental health records, obtained through a court order if necessary;
   i. Documentation of the child’s or young adult’s health insurance or Medicaid;
   j. Documentation of a health power of attorney for the child or young adult;
   k. Proof of the child’s or young adult’s citizenship or legal residency;
   l. Clear and age appropriate written instructions on filing a petition for the child or young adult to re-enter care, including a completed sample petition; and
   m. The process for accessing their case file, and where applicable:
      n. Death certificates of the child’s or young adult’s parents; and
      o. Termination of Parental Rights orders.

3. Coordinate with appropriate local public and private agencies in designing the Transition Plan.

4. Coordinate the Transition Plan with any other appropriate plans, including but not limited to the Independent Living Plan (as described at 42 U.S.C. § 675(1)(D) and Section 401(b) of this sample legislation), and an Individuals with Disabilities Education Act transition plan (as described at 34 CFR § 300.347).

5. Amend and update the Transition Plan for any young adult re-entering care under Section 205.
PART III – SAMPLE LEGISLATION WITH COMMENTARY

ARTICLE 1. GENERAL PROVISIONS

SECTION 101. SHORT TITLE
This “Sample State Legislation to Extend Foster Care, Adoption and Guardianship Protections, Services and Payments to Young Adults Age 18 and Older” is herein referred to as “sample legislation” or “legislation.”

SECTION 102. DEFINITIONS
For the purposes of this legislation:
1. “Administrative review” means a review open to the participation of the child or young adult and the parents, guardians, or other caretakers of the child, unless a court determines participation is not in the best interests of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or young adult or the parents who are the subject of the review, and which is equivalent to the review in which issues are addressed at permanency hearings required by 42 U.S.C. § 675(5)(C).
2. “Child” means an individual who has not attained 21 years of age.
3. “Department” means the state, county, or tribal agency responsible for rendering child welfare services.
4. “Dependency” means the basis for jurisdiction by a state, local or tribal court that encompasses civil protection and oversight of a child who has been found to be abused, neglected, or abandoned, or who has otherwise been found dependent upon Department care and support, or who has been placed in Department care through a voluntary placement agreement executed by a parent or legal guardian.
5. “Fostering Connections” refers to the federal Fostering Connections to Success and Increasing Adoptions Act, Public Law 110-351.
6. “Independent living agency” means a non-profit organization with expertise in the placement and supervision of young adults that meets any relevant licensing requirements of the state and that is operating under contract with the Department to provide placement, case management and supervision services to young adults in foster care. Primary responsibility for the young adults remains with the Department, but those responsibilities can be carried out under contract with appropriate private non-profit service providers.
7. “Independent Living Plan” means a written description of the programs and services which will help a child or young adult prepare for the transition from foster care to independent living as described in 42 U.S.C. § 675(1)(D) and Section 401(b) of this Sample Legislation.
8. “Juvenile court” means any court having dependency jurisdiction.
9. “Medical Condition” means a mental, physical, or emotional condition, including cognitive impairment or addiction.
10. “Supervised setting in which the individual lives independently” means a living arrangement approved by the Department or an “independent living agency” where the individual lives independently, but in which he or she is provided supervision, case management and supportive services by the Department or “independent living agency” that offer...
developmentally appropriate freedom and responsibility to prepare him or her for adulthood. To approve a setting the Department or “independent living agency” must ensure that:

a. Young adults are provided with a level of supervision commensurate with their individual needs, as assessed by the Department or “independent living agency,” consistent with the young adult’s medical treatment plan, including physical, mental health, and substance abuse treatment plans; permanency plan and independent living goals. Less than 24 hour on-site supervision is permitted, however, 24 hour crisis intervention and support must be available.

b. All requirements related to the case plan as established in 42 U.S.C. § 675(1), including the transition plan, and the case review system established in 42 U.S.C. § 675(5) and its required continued pursuit of permanency consistent with the permanency goal, are satisfied and integrated with the goals of the supervised setting in which the individual lives independently.

c. Young adults living independently in supervised settings are offered, at a minimum, supportive services in: life skills instruction and counseling; educational support and progress; employment preparation and placement; development and maintenance of support networks, including family; health and wellness; and housing search and placement. The determination of what services will be provided and for how long will be based on the young adult’s assessed needs, interests, and input and will be consistent with the goals set in the young adult’s case plan. Acceptance of supportive services beyond those required in section 202 by the young adult shall not be considered a condition of eligibility for placement or continuation in a supervised setting in which the individual is living independently. Provision and delivery of supportive services shall be in coordination with the local Independent Living Program.

d. Approved living settings are in compliance with all state or local health and housing codes. Approved living settings do not have to be contracted with or in the legal control of the Department or independent living agency providing supervision, case management, or supportive services, however, responsibility for the young adult remains with the Department.

11. “Transition Plan” means a personalized plan developed at the direction of a child or young adult, with the assistance and support of a caseworker and, as appropriate, other representatives of the child or young adult as described at 42 U.S.C. § 675(5)(H) and Section 402 of this Sample Legislation.

12. “Young adult” means a child who has attained 18 years of age but who has not attained 21 years of age.

Commentary

Administrative Review

42 U.S.C. § 675(6) defines administrative reviews as open to the parents of the child. However, for a child age 18 or older, who is legally an adult, participation by the parents may not be appropriate. Balancing young adults’ status as legal adults with the importance of parents’ rights in a dependency case, the presumption should be that parents, guardians, or other caretakers should participate in “administrative reviews” or hearings consistent with federal or state law, but judges may exclude them when appropriate, including at the request of the young adult. Even though the federal definition of administrative review does not explicitly require the
participation of the child, because the law now extends foster care to individuals who are legal adults, those young adults should participate in all administrative reviews.

Child/Young Adult
To acknowledge that young people, whether in or out of foster care, are legal adults at age 18, "young adult" is used to refer to a youth between ages 18 and 21. The definition of “child” is retained because Fostering Connections only refers to a “child” to describe the population of individuals for whom the state may continue to provide care until age 21 and because, at times, a term encompassing both young adults as well as teenagers is necessary. In some cases, the term "child" is important in reflecting that a given provision applies or may apply to not only young adults but also to children under age 18. For example, the term “child” is used in Section 402 Transition Plan because the transition plan is required 90 days prior to the child/young adult leaving foster care. If a child chooses to exit care at age 18, this transition plan is still required and would be developed when he or she is 17. If a state chooses to extend care to age 21 and a young adult remains in care until that time, then the transition plan would be developed when the “young adult” is 20 years old. Even when the word “child” is used to include young adults, this in no way limits the federal or state rights individuals have as legal adults.

Medical Condition
The definition of “medical condition” clarifies the scope of impairments that can be considered when determining whether a young adult is incapable of fulfilling the requirement to engage in activities outlined in Fostering Connections codified at 42 U.S.C. § 675(8)(B). This definition eliminates potential confusion that a “medical condition” would only be interpreted as a physical health impairment, rather than also including the various behavioral health, developmental, and cognitive disabilities or impairments that can serve as barriers to consistent employment and education. Currently, there is no federal definition or interpretation of “medical condition,” but consistent with providing all children and young adults the services and supports needed for a successful transition to adulthood, states are encouraged to define the term broadly. It is also important that steps be taken to help these young adults move towards independence while in care.

Supervised Setting in which the Individual Lives Independently
Fostering Connections requires Department of Health and Human Services (HHS) to issue regulations defining “supervised setting in which the individual lives independently” for purposes of Title IV-E. As of June 23, 2010, regulations have not been issued. The definition provided here was informed by existing effective programs and is intended to allow for a continuum of options that meet the needs of young adults at different developmental phases. This definition may need to be modified once regulations are published.

ARTICLE 2. EXTENSION OF CARE

SECTION 201. ADOPTION AND GUARDIANSHIP ASSISTANCE SHALL BE EXTENDED TO AGE 21 FOR ELIGIBLE YOUNG ADULTS
With respect to a young adult for whom an adoption assistance or kinship guardianship agreement is executed after the young adult attained 16 years of age or older, the Department
shall continue making adoption and guardianship assistance payments on behalf of that young adult until age 21.

Commentary

Fostering Connections allows states to extend Title IV-E foster care, adoption assistance, kinship guardianship assistance or any combination of the three to age 19, 20 or 21 for Title IV-E eligible young adults. This sample legislation extends foster care, adoption and kinship guardianship assistance to age 21 for all young adults, regardless of Title IV-E eligibility.

State Considerations about Extending Kinship Guardianship and Adoption Assistance Unlike the Title IV-E eligibility requirements for “foster care maintenance payments,” which include continued agency obligations and court review, continuing adoption and kinship guardianship assistance to young adults does not add any additional obligations or responsibilities on the Department or court. These young adults have reached permanency, and their dependency case is already, or should be, closed.

The opportunity to extend adoption and kinship guardianship assistance under Fostering Connections complements the option states have long had to extend adoption assistance to age 21 for young adults with mental or physical disabilities. While this section discusses the provision of Fostering Connections that allows states to extend adoption and kinship guardianship assistance to young adults age 18 and older, nothing in Fostering Connections alters the ability of states to extend IV-E adoption assistance to young adults with mental or physical disabilities. Effective October 1, 2010, states may now also extend kinship guardianship assistance to young adults with mental or physical disabilities to age 21 regardless of when guardianship began or whether that state decides to extend kinship guardianship assistance to youth exiting to guardianship at age 16 or older.

Under Fostering Connections, states can choose to extend only foster care for young adults age 18 and older but that may provide a disincentive to move children to permanent families from foster care. States can remove that disincentive by also extending kinship guardianship assistance and adoption assistance for young adults to age 19, 20, or 21, provided they exited from foster care at age 16 or older. Extending all three types of assistance allows young adults to pursue the most appropriate permanency option without having to make the difficult choice between permanency and receiving needed supports.

In extending kinship guardianship assistance, states may need to review their guardianship laws to determine whether amendments are needed. To ensure that children who exit to guardianship at age 16 or older can continue assistance after age 18, there must be a procedure in state law to allow kinship guardianship assistance beyond age 18. This procedure should recognize these young adults as adults with legal rights of their own but also recognize the need for continued support.

Elimination of Income Eligibility Requirements for Title IV-E Adoption Assistance
This sample legislation extends support to the age of 21 for all young adults who exited foster care to adoption or kinship guardianship after attaining age 16 regardless of IV-E eligibility.
Fostering Connections eliminates, on a phased-out basis, all income and resource requirements associated with eligibility for IV-E adoption assistance, including those established as part of Aid to Families with Dependent Children (AFDC). Thus states choosing to extend adoption assistance to all youth who exit foster care at age 16 or older can expect many of those costs to be eligible for IV-E reimbursement. The phase-out began October 1, 2009 with any child age 16 or older or who has spent at least 60 consecutive months in care at the time his or her adoption assistance agreement is finalized. Siblings of these children are also immediately eligible.

SECTION 202. FOSTER CARE SHALL BE EXTENDED TO AGE 21
1. Unless care and responsibility are terminated pursuant to Sections 203 or 204, the Department shall retain care and responsibility for a young adult in foster care between the ages of 18 and 21 if that young adult is:
   a. Completing secondary education or a program leading to an equivalent credential;
   b. Enrolled in an institution which provides post-secondary or vocational education;
   c. Participating in a program or activity designed to promote, or remove barriers to, employment;
   d. Employed for at least 80 hours per month; or
   e. Incapable of doing any of the activities described in subclauses a. through d. due to a medical condition, which incapability is supported by regularly updated information in the case plan of the young adult.
2. A juvenile court shall, except as provided in Sections 203 and 204, retain jurisdiction over a young adult in foster care between ages of 18 and 21 if the court assumed jurisdiction over the young adult before his or her 18th birthday.
3. Nothing in this statute shall abrogate any responsibilities of the Department or the court on behalf of the young adult, including the protections required under Section 303, or responsibilities of the young adult under state or federal law or regulation.

Commentary

Fostering Connections allows states to extend Title IV-E foster care, adoption assistance, kinship guardianship assistance or any combination of the three to age 19, 20 or 21 for Title IV-E eligible young adults. This sample legislation extends foster care, adoption and kinship guardianship assistance to age 21 for all young adults, regardless of Title IV-E eligibility.

IV-E Eligibility
While this sample legislation extends care to all young adults to age 21, regardless of Title IV-E eligibility, under Fostering Connections only those children who meet Title IV-E eligibility criteria can be supported with Title IV-E dollars. States that extend care and support to young adults who are not IV-E eligible will have to do so with state, local or other federal dollars. A number of states already provide some measure of services and supports to young adults in, or who had been in, foster care beyond age 18.

If states choose to extend federal support for young adults age 18 and older under Fostering Connections, the young adults must meet the eligibility criteria that apply to all children in foster care under 42 U.S.C. § 472, and also be engaged in one of the IV-E eligibility criteria listed in Section 202 (1)(a-e). Fostering Connections does not further clarify what “program or activity
designed to promote, or remove barriers to, employment” means. In the absence of specific federal guidance on the interpretation of this provision, states should consider including at least mental health and substance abuse treatment programs, services and supports to address domestic violence, job training activities, activities to obtain or stabilize housing or child care, English as a Second Language (ESL) instructional programs, and activities designed to eliminate legal barriers to work, keeping in mind that barriers vary based on the individual needs and circumstances of the young adult. In addition, for a child or young adult to be IV-E eligible, he or she must be living in a IV-E reimbursable placement setting, which means a foster home or child care institution, including, for young adults, a “supervised setting in which the individual lives independently.”

Once the state decides to extend assistance to young adults age 18 and older, the state is obligated to serve all who are Title IV-E eligible and are participating in one of the activities above or excused from participating because of a medical condition. A state cannot pick and choose among these five categories and decide, for example, that it will only support young adults who are completing postsecondary education, but not those who are working. States do, however, have the option under Fostering Connections to limit eligibility based on age (i.e. only to young adults to age 19 or 20). Some states already use state and local funds to extend care for all young adults in foster care or all who are eligible for adoption assistance or guardianship assistance to age 21, though many of these states will have to make changes to their programs to qualify for federal support.

Extension of Court Jurisdiction
If a state opts to extend care for young adults age 18 and older as part of their Title IV-E state plan, all of the requirements of Title IV-E apply to young adults in foster care, including court oversight. This includes requirements such as holding a permanency review hearing at least once a year at which the court must make findings regarding whether reasonable efforts were made to finalize the permanency plan and what services were needed for a child age 16 or older to transition from foster care to independence. The court or administrative body must also review the child’s case plan at least once every 6 months. These hearings and reviews, coupled with transition planning efforts (described in Sections 401(b) and 402), help ensure that youth have supports, services, and permanent families or, at least, permanent connections to appropriate adults when they leave care.

Because of the need for court hearings and reviews as a mandatory element for federal IV-E reimbursement, it will be necessary for states to extend court jurisdiction for young adults age 18 and older. While some states already allow for continued court jurisdiction beyond age 18 by

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12 In addition to being required by law, research has shown that continued court oversight for youth who stay in care past age 18 is correlated with positive outcomes for older youth in care. Research also demonstrates that strong client representation and active youth involvement in court are critical. See e.g., Clark Peters, et al., Continuing in Foster Care Past Age 18: How Courts Can Help (Chapin Hall Issue Brief July 2008), located at http://www.chapinhall.org/sites/default/files/publications/Beyond%2018%20Issue%20Brief%20redesign%2002-04-09.pdf (demonstrating the importance of court advocacy and oversight in availability of placements and services, involvement of caseworkers and older adults and a more positive attitude about remaining in care beyond age 18).

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court rule or statute, many states will need to extend court jurisdiction to meet Fostering Connection’s requirements.

SECTION 203. TERMINATION OF CARE—GENERAL PROVISIONS
1. The extended jurisdiction of the court and continued care and responsibilities of the Department provided for in Section 202 terminate on the earliest of:
   a. The date the young adult knowingly and voluntarily withdraws consent as set forth in Section 204;
   b. The young adult exits foster care to a permanent home consistent with his or her permanency plan; or
   c. The young adult’s 21st birthday.
2. Notwithstanding the foregoing, the court shall not terminate its jurisdiction until it finds, following a hearing held after notice to all parties, that:
   a. The Department has complied with the provisions of Section 402; or
   b. The young adult has attained the age of 21 and despite ongoing reasonable efforts on the part of the Department to provide him or her services and inform him or her of the right to remain in care beyond age 18, the young adult has not participated in the development of the Transition Plan under Section 402.

Commentary

Fostering Connections does not include a mechanism for terminating care. This sample legislation offers an approach that fully recognizes the rights of the young adult as a legal adult.

This provision makes clear that, while a young adult may at any time withdraw his or her consent to extended court jurisdiction and continued care and responsibility by the Department pursuant to Section 204, a young adult should otherwise only be discharged from the system to an arrangement where they have permanency, are safe, and will have their needs met (see Sections 401 and 402 for additional information about the need for accountability in discharge planning). Discharge from the system should be contingent on the achievement of outcomes rather than age. The option for young adults to remain in care until age 21 allows more time to achieve permanency.

This Section also emphasizes the importance of respecting the autonomy and legal rights of young adults. If, after weighing all their options and understanding the consequences of their decision, a young adult decides to leave the system, that decision must be respected.

SECTION 204. VOLUNTARY TERMINATION OF CARE
1. If the young adult withdraws consent to extended court jurisdiction and continued care and responsibility by the Department under Section 202, a court hearing must be held before court jurisdiction can be terminated and before the Department may close its case.

For complete list, please see http://www.childwelfarepolicy.org/pages/map.cfm?id=347&tab=&curtab=&state=#jump347.
2. At the hearing, the following criteria must be met before court jurisdiction can be terminated and before the Department may close its case:
   a. Attendance of the young adult’s attorney at the hearing; and
   b. Attendance of the young adult at the hearing; or
   c. Findings by the court that:
      i. The young adult has been informed by his or her attorney of his or her right to attend the hearing and has provided written consent to waive this right;
      ii. The young adult has been informed of the potential negative effects of terminating care early, the option to re-enter care before reaching age 21, the procedure and limitations on re-entering care, the availability of aftercare services, and that the young adult has signed a document attesting that he or she has been so informed and understands these provisions, and
      iii. The Department has complied with Section 402.
3. All provisions under Section 304 shall apply to hearings under this Section.

Commentary

Fostering Connections does not include a mechanism for voluntary termination of care. Acknowledging young adults’ rights as legal adults, this sample legislation details an approach that balances those rights with important protections.

This Section specifies criteria for ensuring that, when a young adult withdraws consent to remain in care before turning 21, that the decision is truly knowing and voluntary. Several states require that a hearing be held before terminating jurisdiction of a young adult’s case. By requiring the young adult’s attendance at the hearing to terminate jurisdiction and assuring the right to legal counsel, the young adult is provided clear and specific information about his or her choice so that he or she can better plan for the future. If a young adult gives up an important legal right, necessary protections must be in place to ensure that the decision is as informed as possible. This section also ensures that a young adult who does withdraw his or her consent is fully apprised of options to re-enter care or receive other aftercare services.

SECTION 205. OPPORTUNITY TO RE-ENTER CARE
1. A young adult who exited foster care at or after reaching his or her 18th birthday, but before reaching age 21, may petition the court to resume dependency jurisdiction and the Department to re-open its case. The court shall resume jurisdiction and the Department shall re-open the case if the young adult is engaged in the activities described in Section 202(1).
2. The Department shall create a clear and developmentally-appropriate notice discussing the rights of young adults’ who were formerly in foster care to services under this sample legislation. The notice shall include information about what services they will be eligible for and how such services may be obtained. The Department shall disseminate this information to all young adults in foster care at their last court review before exiting care as described in Section 302 and at the hearing on their petition to resume dependency jurisdiction as described in this section.
Commentary

Fostering Connections does not include a mechanism for re-entry into foster care after age 18. As a result, it appears that when a young adult age 18 or older leaves care and court jurisdiction is terminated they cannot later be Title IV-E eligible. This sample legislation allows young adults exiting care after age 18 to re-enter and resume court jurisdiction, though the state may not be able to obtain Title IV-E reimbursement on their behalf.

Many States Provide Some Support to Young Adults after Discharge
A number of states already permit young adults age 18 or over to obtain some measure of services and supports after they leave foster care by law or policy. Many of the states that offer young adults services and supports that would be associated with re-entering care do so through an agency administrative process that does not involve the court. Alternatively, some states allow for a full re-entry by resuming responsibility for care and placement of the young adult and providing all associated services and supports, including court oversight. Fostering Connections does not interfere with these state laws or policies. However, for young adults to remain eligible for Title IV-E and, therefore, for the state to claim federal reimbursement for a young adult’s care, they must meet all Title IV-E requirements including original removal from an income eligible home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in that home would be contrary to the welfare of the child.

Allowing Young Adults to Re-enter Care Provides a Safety Net
A policy that allows young adults to re-enter care after age 18 provide these young adults a safety net that is similar to that provided to young adults who grow up in their own families and are able to return home when they need assistance or moral support. Young adults raised in families often have the luxury of returning home well past age 21. This same privilege should be available to young adults in foster care at least until age 21.

Maintaining IV-E Eligibility for Youth Who Want to Live Independently
The Department may want to keep a young adult’s case open to maintain IV-E eligibility, even though the young adult wishes to live independently. The Department may be able to keep a case open by allowing a trial discharge from care or crafting some other mechanism to maintain ongoing agency and court jurisdiction even while the youth is living independently with supervision or services. Absent some mechanism for keeping a case open, states seeking to

16 On April 6, 2010, the Children’s Bureau issued ACYF-CB-PIQ-85-06 that included guidance related to continued IV-E eligibility when a youth resumes care after a “break in placement” such as when a child in foster care exits care either through a trial home visit or through a discharge, and then later re-enters care. The guidance states that “the criteria in determining whether re-establishing a children’s eligibility for foster care maintenance payments under title IV-E hinges on whether the child is continuously in foster care status and remains under the responsibility of the [agency] for placement and care.” To make this determination, the agency must ask: “(1) Is the child in foster care? (2) Is the original court order or voluntary placement agreement still in effect in relation to removal of the child from his home? (3) Is the child still under the responsibility of the [agency] for placement and care?” Per the guidance, if
support young adults who exit care and then want to re-enter may be unable to receive federal IV-E funding reimbursements. Maintaining young adults’ IV-E eligibility is critical to their receiving federal support and the protections under Title IV-E.

ARTICLE 3. COURT SUPERVISION

SECTION 301. LEGAL REPRESENTATION AND CASA ADVOCACY FOR THE YOUNG ADULT IN HIS OR HER DEPENDENCY CASE

1. All young adults shall be appointed an attorney who has received training appropriate to the role, and who has adequate time and resources to provide effective legal representation in the proceeding.

2. The attorney’s representation of the young adult shall be client directed, and the attorney shall be bound by the state’s Rules of Professional Responsibility.

3. The attorney shall protect the young adult’s legal rights and vigorously advocate for the young adult’s wishes and goals, including assisting the young adult as necessary to ensure that the young adult receives the services required under this sample legislation.

4. For young adults who were appointed a guardian ad litem (GAL) attorney before age 18, appointment may be continued but under a client directed model of representation.

5. If the young adult re-enters care under Section 204 and does not have an attorney, the court shall appoint one for the young adult.

6. In addition, the judge has discretion to appoint a court appointed special advocate (CASA volunteer), or continue the appointment of a CASA volunteer, with the young adult’s consent.

Commentary

Fostering Connections is silent on a young adult’s right to legal representation in his or her own dependency case. This sample legislation requires young adults to be represented by an attorney upon reaching age 18.

Each of these criteria is met, then IV-E eligibility would not need to be re-established. This guidance is consistent with the sample legislation that suggests that a young adult’s child welfare case and court case must remain open to continue IV-E eligibility. The guidance later explains that if a child is discharged to the home from which he was removed, even if ongoing agency services continue, then he would not be in foster care status. However, “short trial visits” to his home or to the home of a relative would not be considered interruptions in foster care status. Additionally, previous regulations indicate that the state may continue IV-E eligibility of a child, without a re-determination, as long as the trial home visit does “not exceed six months in duration, unless a court orders a longer trial home visit.” If a trial home visit extends beyond six months and has not been authorized by the court, or exceeds the time period the court has deemed appropriate, and the child is subsequently returned to foster care, that placement must then be considered a new placement and title IV-E eligibility must be newly established. Under these circumstances the judicial determinations regarding contrary to the welfare and reasonable efforts to prevent removal are required. 45 C.F.R. 1356.21 (e). Read together, the new guidance and previous regulations seem to hold out the possibility that a young adult could agree to a trial discharge of less than 6 months, or longer by court order, which could facilitate the continuation of IV-E eligibility of a formerly IV-E eligible youth who resumes care. Of course, as the new guidance also makes clear, federal financial participation is only allowed during the time a child or young adult is in a licensed or approved foster care facility, which may include a supervised setting in which a child is living independently.
Need for Legal Representation
Children and young adults in care value having an advocate involved in their case to speak up for their needs in court, the dependency system and in the community. By acknowledging the importance of participation in every aspect of their case and planning, Fostering Connections reinforces the role of the advocate in helping children and young adults develop self advocacy skills. Attorney representation is essential for young adults to ensure that their legal rights as adults are being met, and that they are receiving the services and supports they critically need for a successful transition to adulthood. An attorney appointed to represent a young adult’s wishes is obligated to zealously advocate on behalf of his or her client. In addition to establishing a trusting relationship with the client, the attorney must provide the young adult all confidentiality protections typical of an attorney-client relationship except in very limited circumstances. The attorney appointed to represent the young adult’s wishes also acts as his or her voice in court.

Using a Client-Directed Model of Representation
The GAL or “best interests” model of representation for attorneys cannot be reconciled with the representation of adult clients. In the case where a state requires the attorney to act as a “best interests” advocate or GAL, legal ethics rules require that the manner of representation should change to client-directed when the child becomes a legal adult. The attorney should focus on ensuring that the young adult receives services and supports he or she wants and on providing the young adult with good counsel about his or her options, advocating for his or her legal interests, and preserving confidentiality. Importantly, the attorney will also support the young adult’s attendance and participation in court by preparing him or her beforehand and debriefing him or her afterwards. States may find that ensuring a young adult’s right to client-directed legal representation may best be accomplished through the amendment of court rules or state statute.

Standards on Effective Advocacy
Especially for this vulnerable population of young adults, effective legal representation by a well-trained attorney with adequate time and resources is essential. For purposes of this section, an attorney who “has adequate time and resources” means that the attorney does not have an excessive caseload size or other responsibilities rendering him or her unable to meet his or her obligations as the child’s lawyer pursuant to standards of practice promulgated by the American Bar Association and the National Association of Counsel for Children. It also means that the attorney receives reasonable and appropriate compensation for his or her time and efforts as well as expenses in connection with that representation. Furthermore, adequate and appropriate training means training that comports with recommendations in standards promulgated by the American Bar Association, the National Association of Counsel for Children, and the National Court Appointed Special Advocate Association. Fostering Connections expands the use of federal Title IV-E training funds to include training of court personnel including judges, attorneys for parents and children, court appointed special advocates, and guardians ad litem. Training for these groups will be reimbursed in FY 2010 at a 60% match and will continue to increase annually, reaching the maximum of 75% in 2013 and beyond.
CASA Advocacy

Many young adults are appointed a court appointed special advocate (CASA volunteer) before turning 18 to represent their best interests. CASA volunteers can effectively support young adults and form close relationships with them and their relatives. They can also advocate for young adults in the community, with service providers, with educational systems, with employers, and with those other individuals who play an important role in the young person's life. CASA volunteers can provide important advice to young adults. They may continue to discover new information and alternative options, help the young adult weigh those options, better understand what else is going on in the system around them, and help make sure their transition plan is progressing as the young adult wants and expects. Furthermore, and most importantly, a CASA volunteer may provide a critical permanent adult connection for the young adult. Therefore, it is important that, if a young adult consents to the continued involvement or new appointment of a CASA volunteer, that the court be given clear authority to make and continue such appointments.

SECTION 302. LAST COURT REVIEW PRIOR TO CHILD TURNING 18

1. During the last review hearing before the child turns 18, the court shall:
   a. Address whether the child plans to remain in foster care, and if so, ensure the child’s transition plan includes a plan for meeting one or more of the criteria listed in Section 202(1); and
   b. Ensure the child has been informed of:
      i. The right to request termination of dependency jurisdiction and discharge from the Department’s care;
      ii. The right to continued services, which include the Department’s obligations under Sections 202, 401 and 402; and
      iii. The opportunity to re-enter care in accordance with Section 205.
   c. If the young adult requests termination of dependency jurisdiction and discharge from the Department’s care, the court shall ensure the young adult has been informed of:
      i. Any services or benefits for which the young adult may be eligible based on being formerly in the care and custody of the Department including, but not limited to, services or benefits available under the Chafee Foster Care Independence Act, 42 U.S.C. § 677;
      ii. Any services or benefits that may be lost through termination of dependency jurisdiction; and
      iii. Any other federal, state, local, tribal or community-based services or supports available to the child.

Commentary

Fostering Connections does not articulate any unique requirements for the last court review prior to a child turning 18. This sample legislation provides an approach that helps ensure that the child is fully informed of the available options to them after attaining age 18 and that the child is fully engaged in planning for the future.

To make the most of the federal support available under Fostering Connections on behalf of young adults who remain in care, states should, during the last review hearing before the child
turns 18, ensure that the child’s transition plan includes a plan for him or her to meet one or more of the criteria listed in Section 202(1).

SECTION 303. PERIODIC REVIEWS FOR YOUNG ADULTS

With respect to any young adult who receives continued care from the Department at or after age 18 under Sections 202 and/or 205, the state shall ensure that:

1. A case review system is in place that includes:
   a. Judicial findings regarding:
      i. The status of the issues described in 42 U.S.C. § 675 (5)(A), (D), (E), (G) and (H);
      and
      ii. Whether reasonable efforts have been made to place siblings together unless the state documents that such a joint placement would be contrary to the safety and well being of any of the siblings, and in the case of siblings who are not jointly placed, a detailed plan for how ongoing frequent visitation or interaction will be achieved unless it is found that frequent visitation or interaction would be contrary to the safety and well being of any of the siblings.
   b. The frequency and mechanism for review described in 42 U.S.C. § 675 (5)(B),
   c. The procedural protections described in 42 U.S.C. § 675 (5)(C), including that in all permanency hearings or hearings regarding the transition of the young adult from foster care to independent living, that the court or administrative body consults, in an age-appropriate manner, with the young adult regarding the proposed permanency or transition plan for the young adult; and
   d. Any other procedural protections that apply to children under 18 under existing state or tribal law.

2. The court maintains oversight to ensure the Department is coordinating with the appropriate agencies, and, as otherwise permitted, maintains oversight of other agencies involved in implementing the young adult’s case plan, including the independent living plan and, when applicable, the transition plan.

3. The Department prepares and presents to the court a report, developed in collaboration with the young adult, the case plan, including the independent living plan and transition plan, when applicable, and shall propose modifications as necessary to further those goals.

4. The court determines whether the Department and any service provider under contract with the Department is providing the appropriate services as provided in the case plan including the independent living plan, and when applicable, the transition plan.
   i. If the court believes that the young adult is entitled to additional services to achieve the goals enumerated in the case plan, under the Department’s policies, or under a contract with a service provider, the court may order the Department to take action to ensure that the young adult receives the identified services.

5. The young adult or any other party to the dependency case can request an additional hearing or review.

Commentary

By virtue of extending care for young adults beyond age 18, Fostering Connections requires the same protections, including periodic court reviews, for all children and young adults in
care. Fostering Connections does not articulate any additional details about these periodic reviews for young adults. This sample legislation offers important details that take into account the unique needs of young adults.

**Judicial Findings in Key Areas**

If a state opts to extend care for young adults age 18 and older, all of the court related requirements of Title IV-E apply, including all of the protections guaranteed as part of the case review system defined in 42 U.S.C. § 675(5). While Fostering Connections requires continued judicial oversight of young adults’ cases, this sample legislation goes beyond it by requiring judicial findings in a number of key areas for which the Department is already held responsible. States should consider requiring these same judicial findings for all children in care.

**Importance of Periodic Reviews**

In addition to assuring compliance with the law, periodic reviews can help the young adult achieve his or her independent living and permanency planning goals through court oversight of established goals and services provided. Active engagement of the young adult as well as all parties will ensure accountability and forward movement in the case.

**Maintaining Family Connections**

Section 303(1)(a)(ii) embeds in court practice the Fostering Connections requirement related to sibling placement and visitation or other frequent ongoing contact. It does so to further promote accountability and ensure older children and young adults experience the benefits of these provisions in their efforts to achieve permanency. Likewise, identifying and notifying relatives, as is required under Fostering Connections within the first 30 days of a child or youth’s removal from his or her parents, may continue to be helpful in maintaining a young adult’s connection to his or her family and in the pursuit of permanency even after the required 30 days.

**SECTION 304. RIGHTS OF THE YOUNG ADULT**

1. Nothing in this sample legislation shall be construed to abrogate any other rights that a person, who has attained 18 years of age, may have as an adult under state law.

2. Young adults have a right to:
   a. Receive notice of case and permanency plan meetings, team decision-making meetings, administrative reviews, court hearings, and any other case-related proceedings or meetings;
   b. Be involved in the development of a personalized transition plan as described in Section 402;
   c. Be present and address the court;
   d. Legal representation as described in Section 302; and
   e. Any other privileges afforded to parties to dependency proceedings under state or tribal law.

3. If the young adult is not present at any hearing, the court shall make a finding as to whether the young adult was given notice and made an informed decision not to attend, in order to proceed with the hearing, or postpone the hearing until the young adult may attend.
Implicit in Fostering Connections is the fact that the federal law does not take away young adults’ legal rights once they turn 18. This sample legislation makes explicit that continuing in foster care does not abrogate any of young adult’s rights and, because of their adult status, makes them parties to ongoing court proceedings, if they were not already, and ensures their participation in planning for the future.

Continuing in care as an adult presents unique, but manageable challenges to a system accustomed to the care of “children.” While the dependency system is designed to protect children and support families, a system that allows for ongoing care and supervision of legal adults must reflect a new focus on young adults’ rights. Remaining in care after turning 18 should not affect the rights that all individuals gain when they become legal adults. This is similarly true for young adults 18 and older who remain in the home of their parents—the parent can establish some conditions for the young adult to remain in the home, but the parent cannot usurp the young adult’s rights to, for example, consent to their own medical care or make their own educational decisions. This Section emphasizes this concept in the realm of court procedures and permanency reviews as well as in the service system.

ARTICLE 4. PROGRAM STRUCTURE

SECTION 401. SERVICES THAT SHALL BE PROVIDED TO THE YOUNG ADULT

1. The Department shall revise the written case plan for each young adult in foster care, after consultation with the young adult to ensure it includes at least the following:
   a. A description of the type of foster family home, institution or “supervised setting in which the individual lives independently,” in which a young adult is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the young adult plans to carry out the voluntary placement agreement entered into, or judicial determination made, with respect to the young adult in accordance with 42 U.S.C. § 672(a)(1) and
   b. A plan for assuring that the young adult receives safe and proper care and that services are provided to the young adult, parents, and foster parents in order to improve the conditions in the parents’ home, facilitate return of the young adult to his own safe home or the permanent placement of the young adult, and address the needs of the young adult while in foster care, including a discussion of the appropriateness of the services that have been provided to the young adult under the plan.
   c. Documentation of the reasonable efforts that have been made to place siblings together, or documentation that such a joint placement would be contrary to the safety and well being of any of the siblings; and in the case of siblings who are not jointly placed, a detailed plan for how ongoing frequent visitation or interaction will be achieved or documentation that frequent visitation or interaction would be contrary to the safety and well being of any of the siblings. This documentation shall be updated in accordance with the review and updating of the case plan.
   d. The health and education records of the young adult, including the most recent information available regarding:
      i. The names and addresses of the young adult’s health and educational providers;
ii. The young adult’s grade level performance;
iii. The young adult’s school record;
iv. A record of the young adult’s immunizations;
v. The young adult’s known medical problems;
vi. The young adult’s medications; and
vii. Any other relevant health and education information concerning the young adult determined to be appropriate by the Department.

e. A written description of the programs and services that will help the young adult prepare for the transition from foster care to independent living, including, but not limited to, documentation that assistance has been provided to:
   i. Complete applications for health insurance, including applications for Medicaid;
   ii. Obtain referrals for, apply for, and obtain safe, stable, and age appropriate housing;
   iii. Maintain relationships with individuals who are important to the young adult, including searching for individuals with whom the young adult has lost contact;
   iv. Access information about maternal and paternal relatives including any siblings, unless contrary to the safety and well-being of the young adult;
   v. Obtain employment or other financial support;
   vi. Obtain a government issued identification card;
   vii. Open and maintain a bank account;
   viii. Obtain appropriate community services and programs including health, mental health, developmental disability, and other disability services and supports; and, where appropriate:
      ix. Satisfy any juvenile justice system requirements and assist with expunging the young adult’s juvenile’s record;
   x. Complete secondary education;
   xi. Apply for admission and aid for postsecondary educational or vocational programs;
   xii. Obtain the necessary state court findings and then apply for Special Immigrant Juvenile Status, or apply for other immigration relief that they may be eligible for, including achievement of citizenship status;
   xiii. Create a health care power of attorney as required by P.L. 111-148;
   xiv. Apply for any public benefits or benefits that he or she may be eligible for or may be due through his or her parents or relatives, including but not limited to TANF, SSI, SSDI, Survivor’s Benefits, WIC, Food Stamps, LIHEAP; and, if applicable,
   xv. Assist with applying for a legal name change.

f. In the case of a young adult whose permanency plan is adoption or placement in another permanent home, documentation of the steps the Department is taking to find an adoptive family or other permanent living arrangement for the young adult to place him or her with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include young adult-specific recruitment efforts such as the use of State, regional and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-state or interstate placements and intensive family finding efforts designed to facilitate connections with adult relatives or others with a significant relationship to the young adult.
g. In the case of a young adult with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under 42 U.S.C. § 673(d), a description of:
   i. The steps that the agency has taken to determine that it is not appropriate for the young adult to be returned home or adopted;
   ii. The reasons for any separation of siblings during placement;
   iii. The reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the young adult’s best interests;
   iv. The ways in which the young adult meets the eligibility requirements for a kinship guardianship assistance payment;
   v. The efforts the agency has made to discuss adoption by the young adult’s relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefore; and the efforts made by the Department to discuss with the young adult’s parent or parents the kinship guardianship assistance arrangement, or the reasons why those efforts were not made.

h. A plan for ensuring the educational stability of the young adult while in foster care, including:
   i. Assurances that the placement of the young adult in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the young adult is enrolled at the time of placement; and
   ii. If the young adult has not completed secondary education, an assurance that the Department has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the young adult remains in the school in which the young adult is enrolled at the time of placement; or
      a. If remaining in such school is not in the best interests of the young adult, assurances by the Department and local educational agencies that they will provide immediate and appropriate enrollment in a new school, with all of the educational records of the young adult provided to that school.

Commentary

Fostering Connections extends to young adults all of the protections that are afforded to younger children. These include the development of a case plan consistent with 42 U.S.C. § 675(1). This sample legislation provides additional detail in a few key areas to incorporate other requirements under Fostering Connections and to better accommodate the needs of young adults.

All children in foster care are entitled to certain protections under Title IV-E including a case plan. If a state chooses to extend care to young adults, they must be afforded these same protections. This section is taken verbatim from the definition of “case plan” at 42 U.S.C. § 675(1) except in a few areas. In Section 401(a), the reference to “supervised setting in which the individual lives independently” is added to reflect that such placements will be Title IV-E reimbursable beginning October 1, 2010 pursuant to Fostering Connections. Section 401(e) includes the federal requirement for the independent living plan described at 42 U.S.C.
675(1)(D), but additional detail is provided to assist states in developing independent living plans that are responsive to the unique needs of young adults. To make the most of the federal support available on behalf of young adults in care, states may also wish to assist the young adult in engaging in one of the Title IV-E required activities listed in Section 202(I). Finally, Section 401(c) integrates the new Title IV-E state plan requirements of Fostering Connections regarding sibling placement to help states demonstrate compliance with these provisions.

SECTION 402. TRANSITION PLAN
During the 90-day period immediately prior to the date on which the young adult in foster care will attain 21 years of age, or the date on which a child or young adult will exit foster care pursuant to Section 203 or 204, whether during that period foster care maintenance payments are being made on the child or young adult’s behalf, or the child or young adult is receiving benefits or services under 42 U.S.C. § 677, a caseworker on the staff of the Department shall:

1. In collaboration with, as appropriate, other representatives of the child or young adult, provide the child or young adult with assistance and support in developing a transition plan that is personalized at the direction of the child or young adult, and that includes specific options for the child or young adult on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services, and that assists the child or young adult in applying for Special Immigrant Juvenile Status or other appropriate immigration relief and citizenship status, if necessary, and that this plan is as detailed as the child or young adult may elect and ensures that the child or young adult has permanent adult connections;

2. Provide the child or young adult with the following documentation:
   a. Copy of the child’s or young adult’s credit report;
   b. Copy of the child’s or young adult’s social security card;
   c. Certified copy of the child’s or young adult’s birth certificate;
   d. Copy of the child’s or young adult’s driver’s license or government issued ID card;
   e. Letter including the dates that the child or young adult was within jurisdiction of the court;
   f. Letter including a statement that the child or young adult was in foster care, in compliance with financial aid documentation requirements;
   g. The child’s or young adult’s entire educational records, obtained through a court order if necessary;
   h. The child’s or young adult’s entire health and mental health records, obtained through a court order if necessary;
   i. Documentation of the child’s or young adult’s health insurance or Medicaid;
   j. Documentation of a health power of attorney for the child or young adult;
   k. Proof of the child’s or young adult’s citizenship or legal residency;
   l. Clear and age appropriate written instructions on filing a petition for the child or young adult to re-enter care, including a completed sample petition; and
   m. The process for accessing their case file, and where applicable:
   n. Death certificates of the child’s or young adult’s parents; and
   o. Termination of Parental Rights orders.

3. Coordinate with appropriate local public and private agencies in designing the Transition Plan.
4. Coordinate the Transition Plan with any other appropriate plans, including but not limited to the Independent Living Plan (as described at 42 U.S.C. § 675(1)(D) and Section 401(b) of this sample legislation), and an Individuals with Disabilities Education Act transition plan (as described at 34 CFR § 300.347).

5. Amend and update the Transition Plan for any young adult re-entering care under Section 205.

Commentary

Fostering Connections requires that a transition plan be developed 90 days before a child or young adult exits foster care. The plan must be personalized at the direction of the child or young adult and include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employments services. This sample legislation includes additional detail on other important elements that should be included in a transition plan and how the Department should support the child or young adult in developing this plan.

Mandatory Transition Plans
Fostering Connections created a mandatory requirement that, as part of the case review system, the Department must ensure that a transition plan is developed for the child or young adult before they exit care. While the transition plan must be personalized at the direction of the child or young adult, the creation of a transition plan is mandatory and there are important steps states can take beyond what is required by Fostering Connections to ensure that a realistic and viable plan is developed.

Providing Children and Young Adults Key Documentation
States are encouraged to provide children and young adults with key documentation to assist them in their planning process. These documents are often critical to obtaining necessary services and accessing opportunities in adulthood – from purchasing a car to receiving medical attention to applying for employment. Children or young adults with special needs who will need to apply for SSI or supportive housing or services will be required to submit these identification documents as well as medical and other records. For children and young adults in foster care – particularly those who experienced multiple placements – these records may be difficult to locate and obtain. To execute their transition plan successfully, children and young adults should be provided with documentation that is critical to their efforts. Also to help children and young adults transition successfully, states are encouraged to coordinate the transition plan described in this Section with other transition plans and the independent living plan described in Section 401(e).
APPENDIX A

Eligibility Requirements for Title IV-E

Eligibility requirements for young adults in Title IV-E foster care - States have the option to amend their Title IV-E state plans and, if the state plan amendments are approved, states may claim federal funds for young adults in foster care beyond their 18th birthday to the age of 19, 20, or 21 beginning on October 1, 2010. With limited exceptions, states can currently only claim federal assistance for children and youth up to their 18th birthday. States will only be federally reimbursed for those young adults in foster care eligible for IV-E maintenance payments. These eligibility criteria include removal from an income-eligible home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child, being under the placement and care of the child welfare agency, and placement in a licensed foster family home or child-care institution, and who are:

• Completing secondary education or in a program leading to an equivalent credential
• Enrolled in an institution that provides post-secondary or vocational education
• Participating in a program or activity designed to promote, or remove barriers to, employment
• Employed for at least 80 hours per month, or
• If a child’s medical condition makes him or her incapable of engaging in these activities, updated information on their condition must be maintained in the child’s case plan.

Eligibility requirements for Title IV-E adoption assistance - Fostering Connections makes two important changes to the eligibility requirements for Title IV-E adoption assistance. First, upon enactment of the new law, children who would be eligible for Supplementary Security Income (SSI) benefits based solely on the medical and disability requirements are automatically considered children with special needs and eligible for adoption assistance without regard to the SSI income requirements. Second, the new law will “de-link” over time children’s eligibility for federal adoption assistance payments from outdated AFDC income requirements. Under pre-existing law, a child in foster care is eligible for federal adoption assistance only if the home they are removed from has an income that meets the state’s Aid to Families with Dependent Children (AFDC) income eligibility standard in place on July 16, 1996. As of October 1, 2009, states with federal adoption assistance programs will be able to claim federal funds for more children with special needs through phased-in de-linking of a child’s eligibility from the AFDC income criteria. In the first year, states must begin phasing in an expansion of the program to reach more eligible children with special needs, beginning with youth age 16 or older and children who already have been in care for five years, who are often the most difficult to place for adoption, as well as siblings of children who meet either of these criteria.

Other children will be phased in by age over the next nine years, so that all eligible children with special needs will be eligible for Title IV-E adoption assistance by October 1, 2017.

Currently, youth are eligible for Title IV-E adoption assistance if the youth:
- Was removed from an income-eligible home and placed into foster care pursuant to a voluntary
placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child and the child meets the definition of a child with special needs;
- Was removed from an income-eligible home and placed into foster care pursuant to a voluntary placement agreement and, while in foster care, Title IV-E foster care maintenance payments were made on the child’s behalf;
- Meets the medical and disability requirements of SSI;
- Is the child of a minor parent that meets the definition of a child with special needs; or,
- Is adopted following the dissolution of an adoptive placement in which the child was receiving Title IV-E adoption assistance.

Once the de-link is phased in, the same criteria will apply with the exception of the income requirements, which will no longer apply.

**Eligibility requirements for Title IV-E kinship guardianship assistance**

**Child’s eligibility** –
Children in relative foster homes who have resided with their prospective relative guardians for at least six consecutive months while eligible for Title IV-E maintenance payments are eligible for kinship guardianship assistance. This means that a child must meet all eligibility requirements for Title IV-E foster care, including the requirement that they were removed from an AFDC-eligible home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child and placed in a licensed or approved home. These children must also demonstrate a strong attachment to the prospective relative guardian. If age 14 or older, youth must be consulted about the guardianship arrangement before it is finalized. Siblings of children eligible for kinship guardianship assistance are also eligible for federal kinship guardianship assistance if placed in the same guardianship arrangement even when they do not meet other eligibility requirements. Additionally, all children who, as of September 30, 2008, were receiving assistance or services under a Title IV-E waiver demonstration project can continue to receive that same assistance and services when the waiver is terminated. The state expenditures on behalf of these children will continue to be eligible for federal reimbursement under Title IV-E regardless of whether the state establishes a Kinship Guardianship Assistance Program.

**Relative guardian’s eligibility** –
An eligible guardian must be a relative of the child, as defined by the state, who has a strong commitment to caring permanently for the child and has undergone criminal record checks and child abuse registry checks. The relative must also be licensed as a foster parent because the Administration for Children, Youth and Families currently requires the home to be licensed in order for the child to be eligible for Title IV-E maintenance payments and, therefore, qualify for guardianship assistance.
APPENDIX B

Additional Resources for State Implementation of the Option to Extend Foster Care and Adoption and Guardianship Assistance to Young Adults Under the Fostering Connections to Success and Increasing Adoptions Act of 2008

Frequently Asked Questions (FAQ) on the Provisions Designed to Impact Youth and Young Adults
www.nationalfostercare.org

Older Youth Provisions Principles of Implementation
www.nationalfostercare.org

Judicial Guide to Implementing the Fostering Connections to Success and Increasing Adoptions Act of 2008 (PL 110-351)
www.grandfamilies.org

New Help for Children Raised by Grandparents or Other Relatives

Need for Extended Dependency Court Jurisdiction Beyond Age 18 and State Chart of Jurisdiction
www.abanet.org/child/empowerment

State Legislation Passed in the Wake of the Fostering Connections Act
www.abanet.org/child/empowerment

Other resources available at:
- www.abanet.org/child
- www.clasp.org
- www.childrensdefense.org
- www.fosteringconnections.org
- www.jlc.org
**SECTION 6. GUARDIANSHIP ASSISTANCE PROGRAM**

<table>
<thead>
<tr>
<th>Federal Regulatory/Statutory References</th>
<th>Requirement</th>
<th>State Regulatory, Statutory, and Policy References and Citations for Each</th>
</tr>
</thead>
<tbody>
<tr>
<td>473(d)(3)</td>
<td>A. ELIGIBILITY</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1. A child is eligible for a kinship guardianship assistance</td>
<td></td>
</tr>
</tbody>
</table>
payment if the State agency determines that:

a. The child has been--
   i. removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and
   ii. eligible for foster care maintenance payments under section 472 while residing for at least 6 consecutive months in the home of the prospective relative guardian.

b. Being returned home or adopted are not appropriate permanency options for the child.

c. The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child.

d. With respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement.

<table>
<thead>
<tr>
<th>473(d)(3)(B)</th>
<th>2. Siblings.</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. The child and any sibling of the child may be placed in the same kinship guardianship arrangement, in accordance with section 471(a)(31), if the State agency and the relative agree on the appropriateness of the arrangement for the siblings; and</td>
<td></td>
</tr>
<tr>
<td>b. Kinship guardianship assistance payments may be paid on behalf of each sibling so placed.</td>
<td></td>
</tr>
<tr>
<td>471(a)(28)</td>
<td>B. AGREEMENTS AND PAYMENTS</td>
</tr>
<tr>
<td>------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>1.</td>
<td>The State agency provides kinship guardianship assistance payments on behalf of children to grandparents and other relatives who assume legal guardianship of the child for whom they have cared as foster parents and for whom they have committed to care on a permanent basis, as provided in 473(d).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>475(7)</th>
<th>2. The legal guardianship shall be a judicially created relationship between the child and relative which is intended to be permanent and self-sustaining as evidenced by the transfer to the relative of the following parental rights with respect to the child:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>a. protection;</td>
</tr>
<tr>
<td></td>
<td>b. education;</td>
</tr>
<tr>
<td></td>
<td>c. care and control of the person;</td>
</tr>
<tr>
<td></td>
<td>d. custody of the person; and</td>
</tr>
<tr>
<td></td>
<td>e. decision making.</td>
</tr>
</tbody>
</table>

| 473(d)(2)  | 3. A kinship guardianship assistance payment on behalf of a child shall not exceed the foster care maintenance payment which would have been paid on behalf of the child if the child had remained in a foster family home. |

<table>
<thead>
<tr>
<th>473(d)(1)(A)</th>
<th>4. The State must-</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>a. negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective</td>
</tr>
</tbody>
</table>
relative guardian of a child who meets the requirements of 473(d), and

b. provide the prospective relative guardian with a copy of the agreement.

### 473(d)(1)(B) & (C)

5. The agreement must specify, at a minimum-

   a. The amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child;

   b. The additional services and assistance that the child and relative guardian will be eligible for under the agreement;

   c. The procedure by which the relative guardian may apply for additional services as needed; and

   d. That the State will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed $2,000; and

   e. That the agreement shall remain in effect without regard to the State residency of the relative guardian.

### 471(a)(20)(C)

C. SAFETY

The State provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases on any relative guardian and child
473(b)(1) to (4)  
**D. MEDICAID AND SOCIAL SERVICES**  
For the purposes of titles XIX and XX, any eligible child for whom there is a kinship guardianship assistance payment being made under section 473(d) is deemed to be a dependent child as defined in 406 of the Act and is deemed to be a recipient of AFDC under part A of title IV of the Act (as in effect 7/16/96) in the State in which such child resides.

471(a)  
**E. PROGRAM REQUIREMENTS**  
1. State plan requirements.  
Title IV-E plan requirements 471(a)(2) through (9), (12), (13), (20)(C), (25), (26), and (28) through (32) are applicable to the guardian assistance program.

475(1)(F)  
2. Case plan requirements.  
For a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardian assistance payments, the State shall include in the case plan a description of:  
a. The steps that the agency has taken to determine that it is not appropriate for the child to be returned home or
adopted;

b. The reasons for any separation of siblings during placement;

c. The reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;

d. The ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment;

e. The efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons; and

f. The efforts made by the State agency to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made.
ATTACHMENT I

TITLE IV-E STATE PLAN -- STATE OF ____________________________________________

CERTIFICATION

I hereby certify that I am authorized to submit amended pages for the State Plan on behalf of

(Designated State Agency)

__________________________  __________________________
(Date)  (Signature)

(Title)

-----------------------------------------------------------------------------------------------------------------

APPROVAL DATE______________________________

EFFECTIVE DATE:______________________________

__________________________________________
(Signature, Associate Commissioner, Children's Bureau)
ATTACHMENT II

TITLE IV-E STATE PLAN – STATE OF __________________________

------------------------------------------------------------------------------------------------------------------

GOVERNOR'S CERTIFICATION

TITLE IV-E of the SOCIAL SECURITY ACT

I certify that _______________________________________________________

(Name of Agency)

has the authority to submit the State plan amendment under Title IV-E of the Social Security Act for the

title IV-E program; and

is the single State agency responsible for administering the plan or supervising the administration of the

plan by local political subdivisions. It has the authority to make rules and regulations governing the

administration of the plan that are binding on such subdivisions. The Title IV-E plan is mandatory upon the

subdivisions and is in effect throughout the State.

________________________________________

(Date)

________________________________________

(Signature)
Guardianship Assistance Program Checklist

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>Pending (describe)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Guardianship Assistance Program Requirements in Fostering Connections (*denotes an option under Fostering Connections)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State has submitted a state plan amendment for the federal Guardianship Assistance Program (GAP)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State has developed a written and binding kinship guardianship assistance agreement to be negotiated with relative caregivers who want to assume guardianship of children in their care</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Guardianship assistance agreement includes information about the payment amount a guardian caregiver will receive on behalf of a child and the manner in which the payment may be adjusted in consultation with the relative caregiver and based on the circumstances of the caregiver and needs of the child</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Guardianship assistance agreement includes information about the additional services and assistance the child and relative guardian will be eligible for and the procedure by which the relative guardian may apply for additional services as needed</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Guardianship assistance agreement specifies that the state will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, not to exceed $2,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Guardianship assistance agreement specifies that the agreement remains in effect regardless of the state residence of the relative guardian</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Guardianship assistance payment does not exceed the foster care maintenance payment the child received or would have received if s/he had remained in a foster family home</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Children eligible for the Title IV-E GAP payments are categorically eligible for Medicaid</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Children eligible for federal GAP payments are those who: have been in state custody, are eligible for Title IV-E, have been living in the home of the prospective relative guardian for at least 6 consecutive months, and have demonstrated a strong attachment to their prospective guardian</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Siblings placed with a Title IV-E eligible child who is eligible for a GAP payment in the home of a relative guardian are also eligible for GAP payments even if they do not meet federal eligibility requirements for GAP</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Guardian must have a strong commitment to caring permanently for the child</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State must determine that reunification and adoption are not appropriate permanency options for an otherwise eligible child before the child can be eligible for GAP payments, except in the case of siblings placed in the same home with the eligible child</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State consults with children 14 years and older about the guardianship arrangements</td>
</tr>
</tbody>
</table>
State makes clear that a child who is eligible for Title IV-E adoption assistance when he or she receives GAP will be eligible for IV-E adoption assistance if the child is later adopted by the guardian as if he or she had never been in guardianship.

State has made provisions for all federally required criminal background checks and child abuse and neglect registry checks before making GAP payments to the relative guardian on behalf of the child.

### Case Plan Requirements for Children to Be Placed with Relatives and Receive GAP Payments

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description of steps taken to determine that it is not appropriate for a child to be returned home or adopted.</td>
<td></td>
</tr>
<tr>
<td>Description of the reasons why adoption is not being pursued after a discussion with the child’s relative foster parent about adoption as a more legally permanent alternative to legal guardianship.</td>
<td></td>
</tr>
<tr>
<td>Description of the reasons for any separation of siblings during placement in the guardianship arrangement.</td>
<td></td>
</tr>
<tr>
<td>Description of why guardianship is in the child’s best interests.</td>
<td></td>
</tr>
<tr>
<td>Description of the ways the child meets the eligibility requirements for GAP payments.</td>
<td></td>
</tr>
<tr>
<td>Description of efforts made to discuss with the child’s parent(s) the guardianship arrangement or reasons why efforts were not made.</td>
<td></td>
</tr>
</tbody>
</table>

### Tribal Considerations in GAP

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Definition of relative recognizes and values the importance of tribal relationships.</td>
<td></td>
</tr>
<tr>
<td>State Title IV-E agreements with tribes address the provision of guardianship assistance to American Indian/Alaskan Native families.</td>
<td></td>
</tr>
<tr>
<td>State Title IV-E agreements with tribes address the continuation of Medicaid coverage for American Indian/Alaskan Native children for whom GAP payments are made.</td>
<td></td>
</tr>
<tr>
<td>State Title IV-E agreements with tribes address the use of federal funds under the Chafee Foster Care Independence Program to provide services and supports to American Indian/Alaskan Native youths who after reaching their 16th birthdays leave foster care for adoption or guardianship.</td>
<td></td>
</tr>
<tr>
<td>State is working with a tribe to apply for direct access to Title IV-E and assisting the tribe to develop the capacity to implement the Title IV-E guardianship assistance program.</td>
<td></td>
</tr>
</tbody>
</table>

### Additional Best Practice Considerations

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>State has a process in place to allow for a successor guardian in the event that the relative guardian of the child dies or is no longer able to care for the child.</td>
<td></td>
</tr>
<tr>
<td>State is using an expansive definition of kin to include godparents, family friends, neighbors and others with a pre-existing relationship to the child in addition to blood relatives.</td>
<td></td>
</tr>
<tr>
<td>State will make Independent Living Services available to children who exit foster care to guardianship after age 16*.</td>
<td></td>
</tr>
<tr>
<td>State will make Education and Training Vouchers available to children who exit foster care to guardianship after age 16*.</td>
<td></td>
</tr>
<tr>
<td>State has developed a way to track the number of children benefitting from GAP and the impact it is having on permanence for children.</td>
<td></td>
</tr>
</tbody>
</table>

---

For further information on the Guardianship Assistance Program, please contact Beth Davis-Pratt from the Children’s Defense Fund at edavis-pratt@childrensdefense.org or Jennifer Miller from ChildFocus at jennifer@childfocuspartners.com.
<table>
<thead>
<tr>
<th>Extended Age Limit</th>
<th>Legal Arrangement Involvement?</th>
<th>Re-entry?</th>
<th>Arrangement Type</th>
<th>Support/Services Provided by State</th>
<th>Financial Assistance/Services to Youth Living On-Campus Provided by State</th>
<th>Other Services Provided by State</th>
</tr>
</thead>
<tbody>
<tr>
<td>21</td>
<td>YES</td>
<td>YES</td>
<td>Foster Home</td>
<td>No state Tuition Waiver program.</td>
<td>ETV Funding: $625,790 (2006 data)</td>
<td>No information provided</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>All youth who are expected to be in foster care as of their 18th birthday are eligible for independent living services. ILP funds can be used to pay tuition, dormitory fees, and room and board.</td>
<td>Those youth in DHR custody who attend college and reside on campus are required to pay tuition, dormitory &amp; cafeteria fees out of student grants, but if they return to the foster home, the foster home pays these expenses, but if the foster home does not pay, the foster home pays for the food and transportation to and from school.</td>
<td></td>
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<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>If a youth ages out of care, if the ten is in foster care beyond age 18, the youth has the option of returning to foster care.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>As long as the ten is in foster care beyond age 18, the youth has the option of returning to foster care.</td>
<td></td>
</tr>
<tr>
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<td></td>
<td></td>
<td></td>
<td>The youth must agree with remaining in foster care.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>As youth age over 18 and not eligible for Title IV-E payments, the cost of maintenance comes out of state funds.</td>
<td></td>
</tr>
</tbody>
</table>
### Alaska

**Contact:** Jeffy Prather, Independent Living Coordinator  
**Tel:** (907) 465-3235  
**Fax:** None listed  
**Email:** jefty_prather@health.state.ak.us  
**Website:** www.state.ak.us

<table>
<thead>
<tr>
<th>Extended Age Limit</th>
<th>Legal Arrangement Type/Court’s Involvement?</th>
<th>Re-entry?</th>
<th>Living Arrangement Type</th>
<th>Financial Assistance/Service Provided by State</th>
<th>Educational Assistance and Services to Youth Living On-Campus Provided by State</th>
<th>Other Support/Services Provided by State</th>
</tr>
</thead>
</table>
| 21                | Yes                                         | No        | Foster Home             | If a youth remains in custody, the foster parent receives foster care payments.  
|                   | If a youth remains in custody after age 18, they remain under the courts control. They continue to have reviews and are asked to participate in the process.  
|                   | Under special conditions, youth were allowed to remain in custody until their 21st birthday if they were in agreement with the idea of remaining in custody.  
|                   | NO                                          |           |                         | One-time crisis housing and assistance with rent for up to four months with a maximum amount not to exceed $5000 (100% of first and second month, 50% of third month and 25% of 4th month’s rent).  
|                   | After a youth leaves state custody, they are unable to return if they are 18 or older.  
|                   | They can receive services through the Chafee Independent Living Program, but those resources are limited.  
|                   |                                             |           |                         | At present, alumni are able to access about $3,000 that can be used for rent, employment needs, or initial furniture needs.  
|                   |                                             |           |                         | Independent living funds are available to youth currently in Office of Children’s Services who were in OCS custody on or after their 16th birthday (and in out-of-home care for six consecutive months) and are not yet 21.  
|                   |                                             |           |                         | The University of Alaska, in partnership with the Office of Children’s Services, provides five, full-tuition waivers per year to eligible foster youth and former foster youth.  
|                   |                                             |           |                         | ETV Funding: $176,099 (2006 data)  
|                   |                                             |           |                         | Currently, you cannot stay on campus over the summer break unless enrolled in summer classes. Legislation has been proposed to address this issue.  
|                   |                                             |           |                         | Alaska’s Youth Advisory Board: Facing Foster Care in Alaska (FFCA)  
<p>| | | | | |
|                   |                                             |           |                         |                                             |</p>
<table>
<thead>
<tr>
<th>Extended Age Limit</th>
<th>Legal Arrangement Type/Court’s Involvement</th>
<th>Re-entry</th>
<th>Living Arrangement Type</th>
<th>Financial Assistance Provided by State</th>
<th>Educational Assistance and Services to Youth Living On-Campus Provided by State</th>
<th>Other Support/Services Provided by State</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>21</strong></td>
<td>NO</td>
<td>YES</td>
<td>Foster Home</td>
<td>A foster parent may continue to receive the foster care maintenance payment as long as their license and contract allow</td>
<td>Arizona State University offers free tuition to youth from low-income families (ASU Advantage Program)</td>
<td>Arizona Youth Advisory Board which is comprised of current and former foster youth.</td>
</tr>
<tr>
<td>Voluntary agreement made at age 18.</td>
<td>There is no legal involvement after age 18.</td>
<td>Youth who leave care at age 18 or older may voluntarily return to care at any time before their 21st birthday.</td>
<td>A foster parent may agree to allow a youth to remain in their home as a &quot;boader&quot;, where the youth receives their IL Subsidy, and pays a portion for room and board to the foster parent. Youth may also board in the homes of relatives, friends, etc. All living arrangements must be reviewed and approved by the assigned case manager.</td>
<td>The Independent Living Subsidy Program (ILSP) is a placement type where a youth may receive a stipend for living expenses. Current maximum is $715/month. This is available until the 21st birthday, as long as the youth has participated in developing (and participating in) a case plan that demonstrates acceptance of personal responsibility, and is designed to result in self-sufficiency for that youth.</td>
<td>ETV Funding: $860,853 (2006 data) Staff work with youth to identify resources for breaks; most often youth with an ongoing positive relationship with foster parents return to those homes, or may go stay with a relative, etc. Our state universities and community college systems have been opening dorms year-round to accommodate students who have no where to go on breaks (students from out of state, out of country, foster youth or others who have no place to go.)</td>
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<td>21</td>
<td>NO</td>
<td>YES</td>
<td>If the youth is in high school or a GED program, he or she remains in a foster home, group home or independent living within a foster family where he or she has responsibilities such as rent payments, etc. to get experience necessary for independent living until completion of high school or GED program and up to the age of 21.</td>
<td>If in foster home: a small stipend is provided to the youth to pay for utilities or rent in order to give youth the opportunity to learn financial responsibility; the rest of foster care maintenance payment is paid to the foster family. If in dorm: assistance is provided for meals (if not on college meal plan), telephone, some transportation, some spending money (room and board, tuition and fees paid directly to college).</td>
<td>Youth’s post-secondary expenses are completely covered by the state after the first $500 for which the youth are responsible. Youth are encouraged to concentrate on education only their first year in college, however after that, youth are encouraged to find simultaneous employment and save for the future. Two pupil personnel specialists assigned to DCF concentrate on working with all youth ages 14 and above to get them through secondary education and into post-secondary education. These specialists arrange for youth to have contacts with tutoring groups and other academic support services for youths in college. Every youth who enters college gets a laptop paid for by DCF. ETV Funding: $651,234 (2006 data)</td>
<td>Youth advisory board is very active and has direct input and influence over department policies concerning such youth. Five of the last seven department policies have been designed and recommended by the youth themselves. The board is active in peer mentoring. Youth advisory board travels to group homes to mentor and inform youth of their rights and resources. Medical coverage is also provided to the age of 21. Youth who remain in voluntary placement until 23 receive medical coverage until that time.</td>
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<td>23 (if the youth completes one year of college by the age of 21 and remains enrolled in college; does not apply to the vocational programs – cut off at 21)</td>
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</table>

- Courts have no role in legal arrangement since youth enter into an agreement with state. 90 day case plans are agreed upon by social worker and the youth.
- The youth can return to care as long as they were in care on their 18th birthday and before their 21st birthday. The youth are interviewed and it is made clear that the purpose of re-entry is to either obtain education or work skills for successful transition into adulthood.

Connecticut

Contact: Frank Martin, Independent Living Coordinator  Phone: (860)550-6592  Fax: (860)566-6727  Email: frank.martin@po.state.ct.us

Website: http://www.ct.gov/dcf/cwp/view.asp?a=2639&Q=327708
<table>
<thead>
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</thead>
<tbody>
<tr>
<td>18 (in rare cases up to 20)</td>
<td>NO</td>
<td>No</td>
<td>Foster Home</td>
<td>A youth age 18 or older living in a foster home, the foster care maintenance payment goes to the foster parent</td>
<td>No state waiver program</td>
<td>Hawaii Foster Youth Coalition</td>
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<td></td>
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<td></td>
<td>The IL program does not provide direct financial assistance, except in the form of limited housing/rental support [planned or emergency]</td>
<td>ETV Funding: $205,915 (2006 data)</td>
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<td></td>
<td>This will provide information about various programs &amp; services: <a href="http://hawaii.gov/dhs/protection/social_services/child_welfare/ILP">http://hawaii.gov/dhs/protection/social_services/child_welfare/ILP</a></td>
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</table>

A youth may remain in foster for the duration of high school. This is usually up to age 18, but can go up to 20 [rarely 21], as long as the youth is continuing in school as sanctioned by the Department of Education.

Jurisdiction and court oversight may be continued until age 19, without an extension of custody.

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</thead>
</table>
| 21                 | DEPENDS                                  | YES      | Foster home             | Foster parent will receive the monthly stipend | Foster youth are eligible for the 21st Century Scholars program which covers full tuition at an Indiana college or university. This program requires the youth to apply during the 7th or 8th grade; however, foster youth may apply with an appeal to the program and are usually accepted after that time if their parents failed to assist them in applying during the 7th or 8th grade  
ETV Funding: $1,014,535 (2006 data)  
It varies by youth; some return to foster parents; others work with the voluntary IL provider to arrange housing or host home agreements | Indiana has a statewide Youth Advisory Board with membership from each of the 18 regions. |

Youth who are in high school and making a concerted effort to graduate may be maintained in care by the courts beyond age 18, as well as, youth who have been accepted into housing services through the Bureau of Developmental Disabilities Services and are awaiting placement.  
Or working at least 35 hours a week  

The court must approve the continued placement. It's rare that cases remain open unless the youth hasn't finished high school or has some other type of developmental delays.  
Chafee Voluntary Independent Living programs (section 11.7 of the Independent Living policy)  
http://www.in.gov/dcs/2530.htm
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<tr>
<td>20</td>
<td>YES</td>
<td>YES</td>
<td>Foster home</td>
<td>Foster parent receives payment</td>
<td>If they graduate from high school prior to age 18 and start college, they could still be in foster care. However, once they turn 18, their case would be closed. 100% state funded All Iowa Opportunity Foster Care grant program (with a total funding of $500,000 per yr) ETV Funding: $790,434 (2006 data) Some youth go back to former foster family, some go home to bio family, some stay in their own apt, and some can stay in dorm - additionally some just go home with friends</td>
<td>None provided.</td>
</tr>
<tr>
<td></td>
<td>Youth in Iowa may, on a voluntary basis, choose to stay in foster care past the age of 18 if they are still attending high school, working towards a high school diploma, or working on obtaining their GED. If they so choose, they must sign a voluntary placement agreement.</td>
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<tr>
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<tr>
<td>21</td>
<td>YES</td>
<td>NO</td>
<td>Foster home</td>
<td>Foster parent would continue to receive payment.</td>
<td>State law provides for a waiver of tuition and fees for eligible youth, either on or off campus. ETV Funding: $558,987 (2006 data) During holidays, youth in college, can coordinate housing options with their IL worker or foster family, if they maintained a relationship with them.</td>
<td>-Assistance with funds to provide clothing for interviews, uniforms, etc; -Transportation for education or employment purposes; -Adult education classes; -College Classes/Credits prior to completion of secondary education; -Expenses related to mentors -Assistance with post secondary education and/or certified training; -Medical Card Extension Program; -Medical Policies, prescriptions &amp; medical services (Not to be used for youth eligible for Medical Card Extension Program) -Youth Leadership training and opportunities</td>
</tr>
</tbody>
</table>

Consent for continued placement must be acquired prior to the youth's 18th birthday.

The majority of youth request release from custody at 18.

Youth 18 and over who have been in care continue to be eligible for services and benefits whether the court has jurisdiction or not. Youth are provided information about how to access these services and relevant time limits.
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<tr>
<td>21</td>
<td>NO</td>
<td>YES</td>
<td>Foster homes</td>
<td>Foster parents receive payments.</td>
<td>No state tuition waiver.</td>
<td>We have Room and board, which any former foster youth can go to the local Child care agencies and ask to be accepted.</td>
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<tr>
<td></td>
<td>They have to go to the courts, and have the judge sign off on a “contract” stating the child is remaining in care. And once they exit the child they have to make the judge aware.</td>
<td></td>
<td>Transitional living Independent Living Apartments</td>
<td>No information provided.</td>
<td>ETV Funding: $665,049 (2006 data)</td>
<td>We have a mentoring program for children in our care at age 15 or older. We have life skills classes, where the child 16/17 have the chance to be a classroom type setting and learn some life skills, such as money management, education, employment, and etc. They do receive a stipend of 250.00 if they complete the whole curriculum.</td>
</tr>
</tbody>
</table>
## Massachusetts

**Contact:** Maureen Fallon-Messeder, Director of Adolescent Support Services  
**Tel:** (617) 748-2231  
**Email:** maureen.messeder@state.ma.us  
**Website:** [www.mass.gov/dss](http://www.mass.gov/dss)

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</thead>
</table>
| 22 (in some cases, youth can remain in care until the age of 23) | NO  
Courts have no role in this as the youth are of age and able to sign a legal agreement to remain in care. | YES | Foster home, Independent living program | If youth live with foster parent(s) or in an independent living program, maintenance payments are made to foster parents or the independent living programs. | State College Tuition and Fee Waiver Program  
Foster Child Grant Program  
William Warrant Scholarship  
ETV Funding: $1,005,443 (2006 data)  
“Home for the Holidays” program, which provides youth with a foster family for the holiday/break times when the dorms are closed | Outreach to help youth develop independent living skills  
Assist the youth in creating life-long connections to adults through:  
a) mentoring programs;  
b) family finding program which uses the internet to find people the youth identify as important in their lives;  
c) and family group conferencing, which allows for increased information and involvement of all those interested in the youth’s success |

If the youth reach the age of 18 but would like to remain in care, they can enter into a voluntary agreement with DCF to remain in care until their 22nd birthday.
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<tr>
<td>21</td>
<td>NO</td>
<td>YES</td>
<td>Foster home</td>
<td>Foster care maintenance payments continue to be made to foster parents.</td>
<td>Foster youth who are orphans or wardens of the state are also eligible for a $2,000 Minnesota State Grant paid directly to the post-secondary education. Foster youth can request waivers from Minnesota’s public colleges (this is sometimes granted only for the first year). ETV funding: $625,702 (2006) Youth who are enrolled in a post-secondary institution have to return to their foster homes or find another living arrangement for the summer/holiday breaks. For additional info, contact Jill Von Holtum at (651) 431-4663 or via email at <a href="mailto:jill.von.holtum@state.mn.us">jill.von.holtum@state.mn.us</a>.</td>
<td>Support for the Emancipation and Living Functionally (SELF) fund pays for youth transition planning targeted to teach youth who are either likely to age out of foster care or adopted after 16 independent living skills. For more info, contact Claire Hill (contact info above) Rental assistance and/or transitional services from 24 statewide community-based programs serving youths ages 16+ who are homeless, or at risk of becoming homeless and have been in care since the age of 16. For more info on this program, contact Kathleen Hiniker at (651) 431-4707. Youth Corner website provides access to statewide community resources for youth including housing, education, jobs, money management, etc. For more info, go to <a href="http://youth.minnesotahelp.info/resourcenavigator/">http://youth.minnesotahelp.info/resourcenavigator/</a></td>
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- Foster youth sign a voluntary placement agreement once they turn 18 and if they wish to remain in care. County can retain legal custody of youth up to age 19 if they are a full-time student.
- No involvement past 18.
- Youth are able to re-enter care as long as they were “wards of the state” and have not reached the age of 21, even if they voluntarily exited at age 18. Youths whose parental rights were not terminated, cannot re-enter care.
- Group Residential Housing (GRH)
- Independent living
- Transitional housing setting (only one county currently has a transitional housing program, the rest simply refer their youth to community non-profit programs).
- The majority of youth enrolled in post-secondary institutions rent their own apartments.
- If the youths’ cases are closed and they are referred to transitional housing run by a community non-profit, no payments are made to the program.
- No stipends for living expenses.
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<tr>
<td>21</td>
<td>YES</td>
<td>NO</td>
<td>Foster home</td>
<td>If in foster home, they are afforded same benefits as all foster youth. Maintenance payments go to foster parent.</td>
<td>No State tuition waivers</td>
<td>Only issue is transportation policy → Current law allows reimbursement to foster parents for taking youth to see their siblings. Foster youth living independently are not covered – they are not reimbursed for the transportation costs of visiting siblings. State is working on changing that.</td>
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<td>Youth can remain in care past 18 if youth desires, if the youth is in school, it’s court-ordered, or if it is determined it’s in the youth’s best interest.</td>
<td>If in college, they can do Independent Living</td>
<td>Other living arrangements include transitional living, &amp; relative care</td>
<td>If in independent living, the youth receives maintenance payments directly, which include clothing vouchers and medical vouchers.</td>
<td>B.E.L.I.E.V.E (Bringing Educational Leadership by Investing and Expecting Victory in Every Child) – this program allows businesses to sponsor foster youth by setting up an account to save for college tuition tax free for up to $8000/child/year. However a lot of businesses do not utilize this program.</td>
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<td>If not asking to be released and the family support team (which includes the youth) decides that youth should remain in care, then a recommendation is made to court to extend care. As soon as they turn 21, they are released.</td>
<td>Other living arrangements include transitional living, &amp; relative care</td>
<td>If in care, still wards of the court.</td>
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<td></td>
<td>When in care, still wards of the court.</td>
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<tr>
<td>21</td>
<td>NO</td>
<td>NO</td>
<td>Youth can remain in their foster homes</td>
<td>Foster care maintenance payments are made to the foster parent. The youth and the foster parent often arrange for an allowance.</td>
<td>The Lottery Scholarship--have to be a New Mexico resident and meet eligibility criteria ETV Funding: $206,090 (2006 data)</td>
<td>Information not provided.</td>
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<tr>
<td></td>
<td>When a youth turns 18 they can voluntarily keep themselves in the foster care system.</td>
<td>NO</td>
<td>Transitional Living programs Housing Pilot program</td>
<td>Youth don’t stay in CYFD’s legal custody after 18. However, if youth want to voluntarily work with CYFD between 18-21 years of age, they may receive a CYFD maintenance check that would normally go to the foster parent.</td>
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</table>
**New York**

**Contact:** Nancy White Martinez, Director, Office of Strategic Planning and Policy Development, NY State Office of Children & Family Services (OCFS)

**Tel:** 518-473-1776  **E-mail:** Nancy.Martinez@ocfs.state.ny.us

**Website:** http://www.ocfs.state.ny.us/main/ddps/adolescent/

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<tr>
<td>21</td>
<td>YES</td>
<td>DEPENDS</td>
<td>Foster home</td>
<td>Foster parents continue to receive a monthly maintenance payment for the youth who remain in care past their 18th birthday. In the case that a youth is attending college, foster care maintenance payments are made directly to the college or university for room and board. Youth participating in Independent Living Programs, monthly maintenance payment goes to program Youth who attend independent living workshops provided by their supervising agency receive a small monthly stipend</td>
<td>No state waiver programs. ETV Funding: $2,620,762 (2006 data) If a foster youth attends college during school breaks that youth may return to his or her previous foster home. (During the break period the foster home receives payment for the days that the youth was there.) Youth who do not have a foster home to return to are an issue that NY is addressing.</td>
<td>Supervision until 21- In NY, a youth who chooses to leave care after turning 18 is still eligible to receive services such as financial, housing, counseling, employment and education assistance until they turn 21. The youth does not re-enter care. A youth older than 18 years old can be adopted, as long as the youth consents, termination of parental rights does not need to occur.</td>
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</table>

When a foster youth turns 18 they can leave care or they can consent to remain in care, but they must be in school, college, or vocational/technical training.

The Family Court maintains jurisdiction, meaning that 18 to 21-year olds are still considered “wards” of the state (NY CLS Family Ct Act § 1055, 2007). The Court continues to hold annual permanency hearings to monitor the youth’s progress. Youth older than 18 with a status of final discharge cannot return to care, although some agencies may provide assistance to these youth at their own discretion.

College dorm, if the youth is attending college

Supervised Independent Living Programs
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<tbody>
<tr>
<td>21</td>
<td>NO</td>
<td>NO</td>
<td>Foster home</td>
<td>Foster care payments continue to the foster family. This is available for our youth who have been in North Dakota family foster care a minimum of six months where a relationship has been established, and who have agreed to remain in the same family foster care home. The youth is eligible for independent Living programming through their regional IL coordinator. This includes individual assistance, classes, assessments, youth groups, flex funds and room and board flex funds.</td>
<td>The state has looked at tuition waivers and extending foster care maintenance payments to support living costs of these youth. Nothing has passed through the ND legislature at this point. ETV Funding: $116,379 (2006 data) Youth return to the foster home. Otherwise the youth would rely on bio family, friends, and possibly former foster parents that they have not continued an official relationship with by signing themselves into care.</td>
<td>None provided.</td>
</tr>
</tbody>
</table>

Providing they are residing in a family foster home, and they are in the process of completing their high school education, or are attending an Institution of Higher Education.

Continuation in foster care must be with the youth’s express and informed written consent and can be terminated at the youth’s discretion.
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<tr>
<td>21</td>
<td>NO</td>
<td>YES</td>
<td>Foster home</td>
<td>Foster parent gets the maintenance payment</td>
<td>State House Bill No. 2452- provides tuition waivers. The waivers are for undergraduate resident tuition at institutions within the Oklahoma State System of Higher Education, and, resident tuition for enrollment in post secondary programs of the area vocation-technical districts. Students will be eligible until they earn a baccalaureate degree of program certificate or until age 26, whichever comes first.</td>
<td>The Youth Advisory Boards</td>
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<tr>
<td></td>
<td>The youth’s court case is dismissed at age 18.</td>
<td></td>
<td></td>
<td>Oklahoma provides youth development funds made available through Chafee that can assist with deposits/rent/utilities. Youth can access these funds for six months between the ages of 18 and 21.</td>
<td>Oklahoma Higher Learning Access Program offered through the State Regents for Higher Education. Foster youth are enrolled in the program during their 8th, 9th, or 10th grade year. Youth must be an academic and behavioral criteria to access the funds when they begin college. Funds can provide up to $3000 per year.</td>
<td>Yes I Can Network where youth 18-21 can call a toll free number to request resources services. The Network can provide telephone case management or if indicated provided face to face case management.</td>
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<tr>
<td></td>
<td>If youth has not finished high school or GED program.</td>
<td></td>
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<td></td>
<td>There are two non-profits that offer scholarships for Oklahoma foster youth.</td>
<td>Youth Development Funds are available to assist the youth in areas that support housing, education, employment, health, life skills and permanent connections.</td>
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<td></td>
<td>If a youth has exited care without completing requirements for a high school diploma or without obtaining a GED, they may return on a voluntary basis and if a placement is available. They may remain in care on a voluntary basis until they have completed their high school education or GED or until age 21 whichever comes first.</td>
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<td>ETV Funding: $1,033,160 (2006 data)</td>
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<td>Several non-profits operate transitional living programs for exiting youth and youth can be referred to these programs. Oklahoma utilized Chafee funds to pay for two 4 bed homes (one male one female) that can provide beds for youth ages 18-21.</td>
<td></td>
<td></td>
<td></td>
<td>Many of the youth return to a foster parent that has become a permanency connection for them. Some colleges allow students to remain in the dorms for an extra cost. Chafee funds are utilized to support this extra housing and meal expense if the student remains on campus.</td>
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</tr>
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<tr>
<td>21</td>
<td>YES</td>
<td>NO</td>
<td>Foster home</td>
<td>Payments go to the foster parent.</td>
<td>House Bill 2431 provides Oregon’s foster children tuition assistance at Oregon Colleges and Universities. To learn about other educational assistance available for youth in care visit: <a href="http://www.fyi3.com/geteducated/">www.fyi3.com/geteducated/</a>  OR  ETV Funding: $932,170 (2006 data)</td>
<td>The Youth Advisory Boards</td>
</tr>
<tr>
<td></td>
<td>If working on completing HS or GED or in an IEP; or the case is reviewed by the Branch Manager and approved as an exception.</td>
<td></td>
<td>Chafee Housing for former foster youth who aged out of care at 18 or older. Both provide a stipend up to $512 per month. Subsidy is a one year (12 month) program. Chafee Housing is until the youth accesses $6,000 or turns age 21, whichever comes first.</td>
<td>Subsidy Program is considered a form of substitute care, payment goes directly to the youth.</td>
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<td></td>
<td>The court must determine if the placement is in the youth's best interest. Court continue reviews.</td>
<td></td>
<td>Oregon does not have any buildings specifically for ILP youth. A few community partners have transitional living programs that our youth can access.</td>
<td></td>
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</tbody>
</table>

**Oregon**

**Contact:** Rosemary Iavenditti, ILP Fiscal Coordinator  
**Phone:** (503) 945-5688  
**Fax:** (503) 945-6969  
**Email:** rosemary.iavenditti@state.or.us  
<table>
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<tr>
<td>22</td>
<td>NO</td>
<td>YES</td>
<td>Foster home</td>
<td>Foster parent receives the payment</td>
<td>Preparation for Adult Living (PAL / Chafee) services include educational supports to youth as well, such as graduation items, tutoring, mentoring, etc. There is a great deal of useful information on The Texas Higher Education Board website <a href="http://www.thecb.org">www.thecb.org</a> as well as our own youth website <a href="http://www.texasyouthconnection.org">www.texasyouthconnection.org</a> under the education tab at the top of the home page, the college for Texans website also has a wealth of information, along with detailed information on tuition fee waivers for young people who've aged out of care, <a href="http://www.collegefortexans.org">www.collegefortexans.org</a>.</td>
<td>Statewide Youth Leadership Council (Youth Advisory Board): Statewide Youth Leadership Council (Youth Advisory Board): There are currently 10 transition centers operating around the state of Texas. Transition Centers provide a central clearinghouse for many partners/providers to serve the diverse needs of older youth, ages 14-25 who are in the process of aging out or who have aged out of foster care.</td>
</tr>
</tbody>
</table>

Youth can remain in care to age 22 to complete high school and age 21 to complete a GED or vocational training program.

Texas extends care for youth up to age 22 to complete educational goals, but court jurisdiction does not extend past age 18. Texas child welfare has the ability to retain the youth but must meet eligibility requirements. All of this is done without court oversight, so legal advocates cannot guarantee the youth is receiving the services to which they are entitled.
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<tr>
<td></td>
<td><a href="http://www.governor.state.tx.us/disabilities/localcom/files/scholarship.doc">http://www.governor.state.tx.us/disabilities/localcom/files/scholarship.doc</a></td>
<td></td>
<td></td>
<td>ETV Funding: $2,697,269 (2006 data)</td>
<td>Texas Return to Care Program allows youth to return on a break or a technical or vocational program for at least one month but no more than 4 months</td>
<td>YOUTH AND ALUMNI LEADERSHIP ACTIVITIES AND EVENTS. Transition Centers are able to provide services to young people up to 25 years of age. They engage alumni in a range of activities and opportunities for growth, connection and fun. Additionally, there is now a Texas state chapter of the Foster Care Alumni Assn with local groups expanding around the state.</td>
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<td>TRANSITIONAL MEDICAID / STAR HEALTH Provides continuous medical coverage to persons age 18 to 21 who have aged out any state’s foster care / custody at 18 years of age or older, must meet other eligibility.</td>
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<tr>
<td>21</td>
<td>DEPENDS</td>
<td>YES</td>
<td>Foster home</td>
<td>The foster parent continues to receive the payment.</td>
<td>No state waiver program.</td>
<td>Virginia Youth Advisory Council (VYAC).</td>
</tr>
<tr>
<td></td>
<td>The Court may continue to keep the case on the docket in order to review the case.</td>
<td></td>
<td></td>
<td>Youth receives a monthly stipend which is CSA (Comprehensive Services Act) funding not Chafee funding.</td>
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<td>If the youth decides to leave, he/she can return to resume IL services as long as he/she returns before 60 days of discontinuance of services.</td>
<td></td>
<td>Foster home</td>
<td>The foster parent continues to receive the payment.</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Apartment or other approved independent living arrangement</td>
<td></td>
<td></td>
<td>Youth receives a monthly stipend which is CSA (Comprehensive Services Act) funding not Chafee funding.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>There are a few localities that have independent living housing program.</td>
<td></td>
<td></td>
<td>Youth receives a monthly stipend which is CSA (Comprehensive Services Act) funding not Chafee funding.</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>The youth may return to their previous foster home or placement, or the social worker will assist in making arrangements for the youth.</td>
<td></td>
<td></td>
<td>Youth receives a monthly stipend which is CSA (Comprehensive Services Act) funding not Chafee funding.</td>
<td></td>
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</tr>
</tbody>
</table>

**Virginia**

**Contact:** Letha Moore-Jones, Independent Living Program Coordinator  
**Phone:** (804) 726-7576  
**Fax:** (804) 692-1284  
**Email:** letha.moore-jones@dss.virginia.gov  
**Website:** www.dss.virginia.gov/family/lc/independent.html
# West Virginia

**Contact:** Christina Bertelli, Chafee Program Manager  
**Phone:** (866) 720-3605  
**Fax:** (304) 556-4563  
**Email:** Christina.M.Bertelli@wv.gov

<table>
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| 21                 | DEPENDS                                  | YES      | Foster Home             | The foster parent received the boarding care payment and is responsible for providing the youth with a personal allowance as well as providing for their needs.  
                      |                          |          | Apartment or Dorm       | We do assist youth in finding an apartment in their community or they can be placed at a school/college.  
                      |                          |          |                          | If they are under the FC-18 and in their own apartment or in college, they do receive a subsidy and this will vary, depending on the youth’s situation.  
                      |                          |          |                          | Example: youth in a dorm, usually get up to 200.00 a month for a personal allowance. Youth in their own apartment usually get up to 650.00 a month. There are guidelines around how they get the subsidies.  
                      |                          |          |                          | State tuition waivers for the purpose of attending a West Virginia public higher education institution, must meet certain eligibility requirements.  
                      |                          |          |                          | ETV Funding: $369,511 (2006 data)  
                      |                          |          |                          | The majority of our youth can go back to a foster home for breaks, or they can stay with a relative or friend. Some are in their own apartments. If they have no place to go, we will make arrangements with the college for interim housing.  
<pre><code>                  |                          |          |                          | We have a computer for graduate program, but it can be for youth under 18 as well. It is for youth who obtain their HS degree or their GED while in foster care. We will purchase a computer for them so they may continue to pursue their educational goals. |
</code></pre>
<table>
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<tr>
<td>19</td>
<td>YES</td>
<td>NO</td>
<td>Foster Home</td>
<td>Until they graduate from high school payments continue to go to the foster parents. Youth do not receive an ongoing stipend. Some counties provide partial/limited funding for things like room and board, insurance, transportation, etc. depending on need and the youth’s IL Transition Plan goals.</td>
<td>No state waivers programs. Two colleges offer special scholarships for former foster youth. ETV Funding: $668,109 (2006 data)</td>
<td>None provided.</td>
</tr>
<tr>
<td></td>
<td>If enrolled in high school or high school completion program.</td>
<td></td>
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</table>
The Fostering Connections Act – PL 110-351

- Optional Title IV-E Kinship Guardianship Assistance FMAP match available for title IV-E eligible children in certain relative guardianship placements (see PL 110-351 for further guidance and requirements).
- Required state plan amendment for notice to relatives of their options to care for a child within 30 days of a child’s removal.
- State plan requirement to explicitly permit a case-by-case waiver to relatives for non-safety foster care licensing requirements.

Grant Opportunities – Effective October 7, 2008
- Family Connections Matching Grants available for states to implement kinship navigator programs, family finding, family group decision-making, and residential family treatment programs. Application information pending from ACF.

Older Youth – Effective October 7, 2008 unless otherwise specified
- State requirement to develop 90 day transitional plan for youth aging out;
- Amendment of Chafee Foster Care Independence Program and Education and Training Vouchers to include youth leaving foster care after age 16 for guardianship or adoption;
- State option to extend IV-E Foster Care, Adoption and Guardianship up to age 21 with effective date of October 10, 2010.

Training – Phase in beginning October 7, 2008
- Extension of claiming abilities for states regarding IV-E training costs to include relative guardians, private child welfare agency staff, court personnel, attorneys, guardians ad litem, and court appointed special advocates.

Adoptions – Effective October 7, 2008 unless otherwise specified
- Reauthorization of Adoption Incentives Program Extension with increases in incentive amounts; updated “baseline”;
- State plan requirement to inform adoptive parents of the Adoption Tax Credit;
- De-link of adoption assistance program from the Aid to Families with Dependent Children (AFDC) requirements – Phase in beginning 2010.

Other IV-E and IV-B Plan Requirements – October 7, 2008
- Assurance that any child qualifying for Title IV-E is in school full-time or is incapable of attending school based on a documented medical condition;
- Plan for ensuring the educational stability of each child;
- Requirement to make reasonable efforts to place siblings removed from their home in the same placement or to facilitate visitation unless it is contrary to the safety or well-being of the child;
- Health oversight and coordination plan required for all children IV-E eligible.

Tribal Provisions – October 1, 2009
- Federally recognized Indian tribes, Tribal organizations and Tribal consortia now eligible for direct Title IV-E funding for foster care, adoption assistance, and kinship guardianship assistance.
- Tribal technical assistance and IV-E plan development grant opportunities (beginning October 7, 2008).

NGA Center for Best Practices
November 24, 2008
Revised Guidance on Fostering Connections Kinship Guardianship Assistance Program Issued

Feb 22, 2010

by Tiffany Conway Perrin

On February 18, 2010, the Administration for Children and Families (ACF) issued ACYF-CB-PI-10-01 to provide States and Tribes with revised instructions on implementing the Guardianship Assistance Program (GAP) option under the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections). This new Program Instruction allows States and Tribes that elect the GAP option to claim federal title IV-E support for children who had already exited foster care to kinship guardianship arrangements at the time the state or tribe elects the GAP option provided that the child and relative are both eligible and the kinship guardianship assistance agreement meets, or is amended to meet, all of the title IV-E requirements.

This new Program Instruction revises and supercedes ACYF-CB-PI-08-07, issued on December 24, 2008 which indicated that States or Tribes that took the GAP option would only be able to claim Title IV-E dollars for children who "exit foster care to a new guardianship arrangement on or after the first day of the quarter in which the approved title IV-E plan amendment was submitted to ACF."

A number of state and national stakeholders expressed concern that the December 24, 2008 interpretation was too narrow and would serve to deny federal kinship guardianship assistance to numerous children and families. As detailed in New Help for Children Raised by Grandparents and Other Relatives, there was broad consensus that Fostering Connections allowed for a child already moved from foster care to relative guardianship at the time the law passed to become eligible for federal assistance for guardianship payments made after the effective date of the law, but only if the guardianship agreement met all of the requirements of the law and the child and caregiver were otherwise eligible for the federal assistance. The new guidance is consistent with this interpretation and also makes clear that a pre-existing kinship guardianship assistance agreement can be amended to meet title IV-E requirements. This may be more difficult in some states than in others depending on how closely their prior kinship guardianship program requirements match the federal GAP requirements.
This issuance is superseded by ACYF-CB-PI-10-01

Program Instruction

To: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act, Indian Tribes, Tribal Organizations and Tribal Consortia (Tribes)

Subject: Title IV-E State Plan Amendment – Guardianship Assistance Program; Title IV-E Guardianship Demonstration Projects; Fostering Connections to Success and Increasing Adoptions Act of 2008

Legal and Related References: Title IV-E of the Social Security Act (the Act); P.L. 110-351

Purpose: The purpose of this Program Instruction (PI) is to provide interested State title IV-E agencies and Tribes instruction on how to implement and operate the Guardianship Assistance Program (GAP) plan option as authorized by the Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law (P.L.) 110-351.

Information: P.L. 110-351 adds section 471(a)(28) to the Act, creating a new title IV-E plan option for States and Tribes to provide kinship guardianship assistance payments to relatives who assume legal guardianship of children for whom they have cared while foster parents. The law also adds new section 473(d) of the Act, which establishes eligibility and other requirements for the title IV-E GAP. Federal financial participation (FFP) using the applicable Federal medical assistance percentage is available for kinship guardianship assistance payments pursuant to section 474(a)(5) of the Act.

The title IV-E GAP applies to kinship guardianship agreements entered into prospectively as of the first day of the quarter in which an approvable title IV-E plan amendment is submitted to ACF to implement the GAP, as described herein. A discussion of the amendments, effective dates for implementation and FFP follows.

State instructions for opting into the title IV-E GAP are included in this PI. Tribes that have an approved title IV-E plan pursuant to section 479B of the Act on or after October 1, 2009, may opt to operate a title IV-E GAP under the same conditions as the States. Tribal instructions for opting into the GAP will be forthcoming.

Eligibility.

Once a title IV-E agency begins operating a guardianship assistance program under title IV-E, it is obligated to provide such assistance to any child who is eligible for title IV-E kinship guardianship assistance payments (section 473(d)(1)(A) of the Act).

Child Requirements. To be eligible for title IV-E kinship guardianship assistance payments, a child must have been: 1) removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child; and 2) eligible for title IV-E foster care maintenance payments during at least a six consecutive month period during which the child resided in the home of the prospective relative guardian who was licensed or approved as meeting the licensure requirements as a foster family home. While the Act does not require title IV-E foster care maintenance payments to have been paid on behalf of the child during the six month timeframe, it does require that such a child meet all title IV-E foster
care maintenance payment eligibility criteria pursuant to section 472(a),(b) and (c) of the Act and 45 CFR 1356.21 in the home of the fully licensed or approved relative foster parent for a consecutive six-month period to be eligible for title IV-E kinship guardianship assistance payments with that prospective relative guardian (section 473(d)(3)(A)(i)(II) of the Act).

Additionally, the title IV-E agency must determine that: 1) return home or adoption are not appropriate permanency options; 2) the child demonstrates a strong attachment to the prospective relative guardian; and 3) the relative guardian has a strong commitment to caring permanently for the child. Finally, the State must determine that a child who is 14 years or older has been consulted regarding the kinship guardianship arrangement. These determinations are not judicial findings but rather determinations made by the title IV-E agency (section 473(d)(3)(A) of the Act).

**Prospective Relative Guardian Requirements.** Before a relative guardian may receive title IV-E kinship guardianship assistance payments on behalf of a child, the title IV-E agency must conduct fingerprint-based criminal records checks of the national crime information databases of the relative guardian(s) and child abuse and neglect registry checks of relative guardian(s) and other adults living in the guardian’s home consistent with section 471(a)(20)(C) of the Act. Consistent with existing policy, if the State has established an appropriate timeframe that such background checks remain valid and such timeframe has not expired for the foster parent who previously received the background checks and is now seeking to become a prospective relative guardian, the State can consider the requirement of section 471(a)(20) of the Act met without conducting new background checks (Child Welfare Policy Manual 8.4F Q/A #13).

**Title IV-E Kinship Guardianship Assistance Agreements and Payments.** Section 473(d)(1)(A) requires that a title IV-E agency negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective relative guardian, and provide the prospective relative guardian with a copy of the agreement. Section 473(d)(1)(B) of the Act prescribes certain requirements for the kinship guardianship assistance agreement. It must specify the following: the amount of, and manner in which the kinship guardianship assistance payment will be provided to the prospective relative guardian; the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child; the additional services and assistance for which the child and relative guardian will be eligible under the agreement; and the procedure by which the relative guardian may apply for additional services.

Additionally, the kinship guardianship assistance agreement must provide that the agreement will remain in effect without regard to the State residency of the relative guardian pursuant to 473(d)(1)(C) of the Act, and must specify that the agency will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child to the extent the total cost does not exceed $2,000.

The title IV-E kinship guardianship assistance agreement must be in place with a prospective relative guardian prior to the establishment of the legal guardianship. Once the relative guardian has committed to care for the child and has assumed legal guardianship for the child consistent with sections 471(a)(28) and 475(7) of the Act, the title IV-E agency may then pay kinship guardianship assistance payments on behalf of a child to the relative guardian. Kinship guardianship assistance payments may not exceed the foster care maintenance payment the child would have received if he or she remained in a foster family home (section 473(d)(2) of the Act).

**Siblings.** The title IV-E agency may make kinship guardianship assistance payments pursuant to a kinship guardianship agreement on behalf of each sibling of an eligible child who is placed with the same relative under the same kinship guardianship agreement if the title IV-E agency and the relative guardian agree that the placement is appropriate (section 473(d)(3)(B) of the Act). Title IV-E nonrecurring expenses are also available for siblings so placed. The Act does not require that the State place siblings with the relative guardian of the child simultaneously with the title IV-E eligible child for the siblings to qualify for payment under section 473(d)(3)(B) of the Act. The sibling does not have to meet the eligibility criteria pursuant to section 473(d)(3)(A) to receive kinship guardianship assistance payments or for the legal guardian to be reimbursed for the nonrecurring expenses related to costs of the legal guardianship.

**Medicaid Eligibility.** Children who receive kinship guardianship assistance payments are categorically eligible for title XIX pursuant to section 473(b)(3)(C) in the State where such child resides.

**Fair Hearings.**

The title IV-E agency must provide an opportunity for a fair hearing to any individual whose claim for kinship guardianship assistance available under title IV-E is denied or is not acted upon with reasonable promptness (section 471(a)(12) of the Act, and 45 CFR 205.10).

**Case Plan Requirements.**

Section 475(1)(F) requires the State to include specific information in the case plan for each child with a permanency plan of placement with a prospective relative guardian and receipt of kinship guardian assistance payments. The case plan must describe the following: 1) how the child meets the eligibility requirements; 2) the steps the agency has taken to determine that return to the home or adoption is not appropriate; 3) the efforts the agency has made to discuss adoption with the child’s relative foster parent and the reasons why adoption is not an option; 4) the efforts the agency has made to discuss kinship guardianship with the child’s parent or parents or the reasons why efforts were not made; 5) the reason why a permanent placement with a prospective relative guardian and receipt of a kinship guardianship assistance payment is in the child’s best interests; and 6) the efforts made by the agency to discuss with the child’s parent(s) the kinship guardianship assistance arrangements or why efforts were
not made. If the child's placement with the prospective relative guardian does not include siblings, the case plan must also include a description of the reasons why the child is separated from siblings during placement.

**Title IV-E Plan Requirements.**

The title IV-E plan requirements that are not specifically limited to the title IV-E foster care maintenance payment or adoption assistance programs also apply to the guardianship assistance program under title IV-E. These requirements are in sections 471(a)(2) through 471(a)(9); 471(a)(12), 471(a)(13), 471(a)(25), 471(a)(26), and 471(a)(30) through (a)(32) of the Act, and address topics such as agency organization and program administration, program audits and monitoring, confidentiality of information, fair hearings, interstate placements, school attendance and sibling placement. Further, Departmental regulations at 45 CFR 1355.30 apply to the title IV-E guardianship assistance program to the same extent that they apply to the title IV-E foster care maintenance payments and adoption assistance programs.

**Title IV-E Agency Option to Extend the Duration of Title IV-E Kinship Guardianship Assistance Payments after October 1, 2010.**

Beginning October 1, 2010, a title IV-E agency may extend the age that a child is eligible to receive kinship guardianship assistance payments up to age 19, 20 or 21 (at title IV-E agency option) under certain conditions. For a child on whose behalf a kinship guardianship assistance agreement was entered into after the child turned age 16, the title IV-E agency may opt to continue kinship guardianship assistance payments until the child attains age 19, 20 or 21 if the child, once he reaches 18, is: 1) completing secondary school (or equivalent); 2) enrolled in post-secondary or vocational school; 3) participating in a program or activity that promotes or removes barriers to employment; 4) employed 80 hours a month; or 5) determined incapable of any of the above due to a documented medical condition (section 475(8)(B)(iv) of the Act). Further information on this option will be issued at a later date.

Also beginning October 1, 2010, a title IV-E agency may not provide a kinship guardianship assistance payment if the agency determines that the relative guardian is no longer legally responsible for the support of the child or if the child is no longer receiving any support from the relative guardian. A relative guardian who receives kinship guardianship assistance payments on behalf of a child must keep the title IV-E agency administering the guardianship assistance program informed of circumstances which would make him/her ineligible for payments or eligible for the payments in a different amount (section 473(a)(4)(A) and (B) of the Act).

**Administration and Training.**

A title IV-E agency that is operating a title IV-E GAP may claim allowable administrative and training costs for the proper and efficient administration of the guardianship assistance program. These costs may be claimed in accordance with an approved public assistance cost allocation plan as per Departmental regulations at 45 CFR 95.507 at the following Federal financial participation (FFP) rates:

- 50% for nonrecurring expenses up to $2,000 as well as administrative costs related to child placement and administration of the GAP pursuant to section 474(a)(3)(E) of the Act;
- 75% for short and long-term training of GAP personnel employed or preparing for employment by the public agency pursuant to section 474(a)(3)(A) of the Act;
- 75% for short-term training of prospective or existing foster parents pursuant to section 474(a)(3)(B) of the Act;
- 55% for short-term training of (among other individuals identified in the Act) relatives who have assumed guardianship in FY 2009, increasing by five percent each fiscal year until it reaches 75% in FY 2013, pursuant to section 474(a)(3)(B) and 203(b) of P.L. 110-351.
- 50% for Statewide Automated Child Welfare Information System (SACWIS) costs pursuant to 474(a)(3)(D) and (E) and, if required under 45 CFR 95.601, an approved Advanced Planning Document.

Allowable training costs and activities associated with the GAP may be claimed at the applicable FFP rate and must be addressed in the title IV-E agency's title IV-B training plan in accordance with 45 CFR 1356.60(b) and in an approved cost allocation plan. Updates to the training plan in response to P.L. 110-351 are not due before the June 30, 2009 Child and Family Services plan submission deadline. Specific guidance for this submission will be issued at a later date.

**Title IV-E Guardianship Waiver Demonstration Projects.**

States with approved waiver demonstration projects providing guardianship assistance or services pursuant to section 1130 of the Act may continue to operate such projects in accordance with the existing applicable terms and conditions. Upon termination of such a project, the title IV-E State agency may continue to claim title IV-E and provide Medicaid if applicable, for the same assistance and services under the same terms and conditions that a child received under a guardianship demonstration project as of September 30, 2008. This claiming authority exists whether or not the State opts to operate a GAP pursuant to 473(d) of the Act (section 474(g) of the Act).

**Financial Reporting.**

Until a revised form ACF-IV-E-1 is issued, title IV-E agencies should report GAP expenditures as a component of and in the same manner as adoption assistance program expenses. To the extent that training costs are incurred where the transitional FFP rate of 55% is applicable, the costs are to be reported as part of “State and Local Training” with the reported amounts in the Federal share columns reflecting the actual total claimed FFP (combination of amounts subject to 75% and 55%). The form ACF-IV-E-1 must be supplemented with information to clearly identify (on a line
by line basis) the portion of reported adoption assistance program expenditures that support the GAP. Further
guidance on the submission of the ACF-IV-E-1 is forthcoming under separate cover.

**Effective Date for Implementation of Guardianship Assistance Program.**

A State may submit a title IV-E plan amendment to operate a title IV-E GAP after the date of the law's enactment,
October 7, 2008. The Tribal option to operate a title IV-E GAP becomes available on October 1, 2009.

The State or Tribal title IV-E agency may implement and claim allowable guardianship assistance program costs
beginning on the first day of the quarter in which an approvable title IV-E plan amendment is submitted to ACF to
implement the GAP (45 CFR 1356.20(d)(8)). Allowable administrative costs for the title IV-E GAP can be claimed
pursuant to an amended and approved public assistance cost allocation plan (PACAP) or a pending PACAP in some
situations (45 CFR 95.515).

A State or Tribe with an approved title IV-E plan amendment may claim title IV-E for only those children for whom
the agency enters into a new kinship guardianship assistance agreement and who exit foster care to a new
guardianship arrangement on or after the first day of the quarter in which the approved title IV-E plan amendment
was submitted to ACF (section 471(a)(28) and 473(d)(1)(A) of the Act). Please note, however, that the child may
satisfy the requirement pursuant to 473(d)(3)(A)(i)(II) of the Act (eligibility for title IV-E foster care maintenance
payments while residing in the home of the prospective relative guardian for six-consecutive months) prior to the
first day of the quarter in which an approvable title IV-E plan amendment is submitted to ACF to implement the GAP.

**INSTRUCTIONS:** State Plan Submissions.

Each State that elects to operate a guardianship assistance program must submit to ACF a revised title IV-E plan pre
-print amendment (see Enclosure) that reflects the title IV-E statutory requirements for a GAP. In completing the
amendment, States must record the applicable State statutory, regulatory or policy references and citations for the
affected Federal requirement. States may submit their title IV-E plan amendment using the enclosed pages, or may
use the electronic version found at the Children's Bureau web page at http://www.acf.hhs.gov/programs/cb. States
may use a different format, provided that the format used includes all of the applicable title IV-E plan requirements
of the Act as set forth in the new law. If a State chooses to use its own format, it must include all applicable State
statutory, regulatory or policy references and citations for each requirement. If, at the time a State elects to operate
a guardianship assistance program, ACF has issued a new title IV-E plan pre-print, the State should use the title IV-
E plan pre-print instead of the enclosed plan amendment.

States that elect to provide a GAP must submit the completed title IV-E plan pre-print to the appropriate ACF
Regional Program Manager for approval. The completed plan amendment may be submitted at any time. Please note
that the plan amendment must be submitted electronically or on a compact disk. Where States are unable to submit
electronic signatures for purposes of certification, they may submit the appropriate pages with original signatures. In
addition, States must submit copies of referenced material to document compliance for any cited statute, regulation,
policy and procedure.

**Inquiries To:** Children's Bureau Regional Program Managers

/s/
Joan E. Ohl
Commissioner

Attachment A – Children’s Bureau Regional Program Managers
HTML or PDF (20 kb)

Attachment B – State Plan Amendment Pre-Print
HTML or PDF (30 kb)
ACF Administration For Children and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration on Children, Youth and Families

1. Log No.: ACYF-CB-PI-10-01
2. Issuance Date: February 18, 2010
3. Originating Office: Children's Bureau
4. Key Words: Title IV-E Plans, Kinship Guardianship Assistance, Training, Fostering Connections to Success and Increasing Adoptions Act of 2008 (Supersedes ACYF-CB-PI-08-07 and ACYF-CB-PI-09-04)

Program Instruction

To: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act (the Act), Indian Tribes, Tribal Organizations and Tribal Consortia (Tribes)

Subject: Title IV-E Plan Amendment – Guardianship Assistance Program; Title IV-E Guardianship Demonstration Projects; Fostering Connections to Success and Increasing Adoptions Act of 2008

Legal and Related References: Title IV-E of the Social Security Act; P.L. 110-351; ACYF-CB-PI-08-07 and ACYF-CB-PI-09-04 superseded.

Purpose: This Program Instruction (PI) supersedes ACYF-CB-PI-08-07 issued December 24, 2008 and ACYF-CB-PI-09-04 issued March 24, 2009. The purpose of this PI is to provide interested State title IV-E agencies and Tribes revised instructions on how to implement and operate the Guardianship Assistance Program (GAP) title IV-E plan option as authorized by the Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law (P.L.) 110-351.

Background: ACYF-CB-PI-08-07 provided the Children's Bureau's (CB) initial instructions for implementing the title IV-E option under section 471(a)(28) of the Act. The option provides for kinship guardianship assistance payments to relatives who assume legal guardianship of certain children for whom they have cared while foster parents. The PI limited title IV-E claims for guardianship assistance to those payments made on behalf of children newly entering guardianship on or after the first day of the quarter in which the State or Tribe's approved title IV-E plan amendment was submitted to ACF. Since that issuance, a number of stakeholders have expressed great concern with the interpretation in the PI that Federal reimbursement was available only on behalf of new guardianships and requested that we revisit the issue. We have done so and determined that an alternative interpretation is permissible.

Therefore, this PI supersedes ACYF-CB-PI-08-07 in its entirety; republishes and updates the instructions regarding the program and eligibility criteria; and provides new guidance regarding the payments available for Federal reimbursement pursuant to an amended title IV-E plan. This instruction allows title IV-E agencies to convert legal guardianships that existed prior to the plan submission, including those that may have been supported through State or Tribal funds, to the title IV-E GAP program provided that those children meet all eligibility criteria as described herein.

Information: P.L. 110-351 adds section 471(a)(28) to the Act, creating a new title IV-E plan option for States and Tribes to provide kinship guardianship assistance payments to relatives who assume legal guardianship of children for whom they have cared while foster parents. The law also adds new section 473(d) of the Act, which establishes eligibility and other requirements for the title IV-E GAP. Federal financial participation (FFP) using the applicable Federal medical assistance percentage is available for kinship guardianship assistance payments pursuant to section 474(a)(5) of the Act.

Federal reimbursement for allowable title IV-E GAP assistance is available as of the first day of the quarter in which an approvable title IV-E plan amendment is submitted to ACF to implement the GAP (45 CFR 1356.20(d)(8)), as described herein. A discussion of the amendments, effective dates for implementation and FFP follows.

Eligibility: Once a title IV-E agency begins operating a guardianship assistance program under title IV-E, it is obligated to provide such assistance to any child who is eligible for title IV-E kinship guardianship assistance payments (section 473(d)(1)(A) of the Act).
**Child Requirements.** To be eligible for title IV-E kinship guardianship assistance payments, a child must have been: 1) removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child; and 2) eligible for title IV-E foster care maintenance payments during at least a six-consecutive month period during which the child resided in the home of the prospective relative guardian who was licensed or approved as meeting the licensure requirements as a foster family home. While the Act does not require title IV-E foster care maintenance payments to have been paid on behalf of the child during the six-month timeframe, it does require that such a child meet all title IV-E foster care maintenance payment eligibility criteria pursuant to section 472(a), (b) and (c) of the Act and 45 CFR 1356.21 in the home of the fully licensed or approved relative foster parent for a consecutive six-month period to be eligible for title IV-E kinship guardianship assistance payments with that prospective relative guardian (section 473(d)(3)(A)(i)(II) of the Act).

Additionally, the title IV-E agency must determine that: 1) return home or adoption are not appropriate permanency options for the child; 2) the child demonstrates a strong attachment to the prospective relative guardian; and 3) the relative guardian has a strong commitment to caring permanently for the child. Finally, the IV-E agency must determine that a child who is 14 years or older has been consulted regarding the kinship guardianship arrangement. These determinations are not judicial findings but rather determinations made by the title IV-E agency (section 473(d)(3)(A) of the Act).

**Prospective Relative Guardianship Requirements.** Before a relative guardian may receive title IV-E kinship guardianship assistance payments on behalf of a child, the title IV-E agency must conduct fingerprint-based criminal records checks of the national crime information databases of the relative guardian(s) and child abuse and neglect registry checks of relative guardian(s) and other adults living in the guardian’s home consistent with section 471(a)(20)(C) of the Act. Consistent with existing policy, if the IV-E agency has established an appropriate timeframe such background checks remain valid and such timeframe has not expired for the foster parent who previously received the background checks and is now seeking to become a prospective relative guardian, the IV-E agency can consider the requirement of section 471(a)(20) of the Act met without conducting new background checks (Child Welfare Policy Manual 8.4F Q/A #13).

**Title IV-E Kinship Guardianship Assistance Agreements and Payments.** Section 473(d)(1)(A) requires that a title IV-E agency negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective relative guardian, and provide the prospective relative guardian with a copy of the agreement. Section 473(d)(1)(B) of the Act prescribes certain requirements for the kinship guardianship assistance agreement. It must specify the following: the amount of, and manner in which the kinship guardianship assistance payment will be provided to the prospective relative guardian; the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child; the additional services and assistance for which the child and relative guardian will be eligible under the agreement; and the procedure by which the relative guardian may apply for additional services.

Additionally, the kinship guardianship assistance agreement must provide that the agreement will remain in effect without regard to the State residency of the relative guardian pursuant to 473(d)(1)(C) of the Act, and must specify that the agency will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child to the extent the total cost does not exceed $2,000.

A kinship guardianship assistance agreement must be in place with a prospective relative guardian prior to the establishment of the legal guardianship. Once the relative guardian has committed to care for the child and has assumed legal guardianship for the child consistent with sections 471(a)(28) and 475(7) of the Act, the title IV-E agency may then pay kinship guardianship assistance payments on behalf of a child to the relative guardian provided that the agreement meets, or is amended to meet, all the requirements of section 473(d)(1) of the Act. Kinship guardianship assistance payments may not exceed the foster care maintenance payment the child would have received if he or she remained in a foster family home (section 473(d)(2) of the Act).

**Siblings.** The title IV-E agency may make kinship guardianship assistance payments pursuant to a kinship guardianship agreement on behalf of each sibling of an eligible child who is placed with the same relative under the same kinship guardianship arrangement if the title IV-E agency and the relative guardian agree that the placement is appropriate (section 473(d)(3)(B) of the Act). Title IV-E nonrecurring expenses are also available for siblings so placed. The Act does not require that the IV-E agency place siblings with the relative guardian of the child simultaneously with the title IV-E eligible child for the siblings to qualify for payment under section 473(d)(3)(B) of the Act. The sibling does not have to meet the eligibility criteria in section 473(d)(3)(A) to receive kinship guardianship assistance payments or for the legal guardian to be reimbursed for the nonrecurring expenses related to costs of the legal guardianship.

**Medicaid Eligibility.** Children who receive kinship guardianship assistance payments are categorically eligible for title XIX Medicaid pursuant to section 473(b)(3)(C) in the State where such child resides.

**Fair Hearings**

The title IV-E agency must provide an opportunity for a fair hearing to any individual whose claim for kinship guardianship assistance available under title IV-E is denied or is not acted upon with reasonable promptness (section 471(a)(12) of the Act, and 45 CFR 205.10).

**Case Plan Requirements**
Section 475(1)(F) of the Act requires the title IV-E agency to include specific information in the case plan for each child with a permanency plan of placement with a prospective relative guardian and receipt of kinship guardian assistance payments. The case plan must describe the following: 1) how the child meets the eligibility requirements; 2) the steps the agency has taken to determine that return to the home or adoption is not appropriate; 3) the efforts the agency has made to discuss adoption with the child’s relative foster parent and the reasons why adoption is not an option; 4) the efforts the agency has made to discuss kinship guardianship with the child’s parent or parents or the reasons why efforts were not made; 5) the reason why a permanent placement with a prospective relative guardian and receipt of a kinship guardian assistance payment is in the child’s best interests; and 6) the efforts made by the agency to discuss with the child’s parent(s) the kinship guardianship assistance arrangements or why efforts were not made. If the child’s placement with the prospective relative guardian does not include siblings, the case plan must also include a description of the reasons why the child is separated from siblings during placement.

**Title IV-E Plan Requirements**

The title IV-E plan requirements that are not specifically limited to the title IV-E foster care maintenance payment or adoption assistance programs also apply to the guardianship assistance program under title IV-E. These requirements are in sections 471(a)(2) through 471(a)(9); 471(a)(12), 471(a)(13), 471(a)(25), 471(a)(26), and 471(a)(30) through (a)(32) of the Act, and address topics such as agency organization and program administration, program audits and monitoring, confidentiality of information, fair hearings, interstate placements, school attendance and sibling placement. Further, Departmental regulations at 45 CFR 1355.30 apply to the title IV-E guardianship assistance program to the same extent that they apply to the title IV-E foster care maintenance payments and adoption assistance programs.

**Title IV-E Agency Option to Extend the Duration of Title IV-E Kinship Guardianship Assistance Payments after October 1, 2010**

Beginning October 1, 2010, a title IV-E agency may extend the age that a child is eligible to receive kinship guardianship assistance payments up to age 19, 20 or 21 (at title IV-E agency option) under certain conditions. For a child on whose behalf a kinship guardianship assistance agreement was entered into after the child turned age 16, the title IV-E agency may opt to continue kinship guardianship assistance payments until the child attains age 19, 20 or 21 if the child, once he/she reaches 18, is: 1) completing secondary school (or equivalent); 2) enrolled in post-secondary or vocational school; 3) participating in a program or activity that promotes or removes barriers to employment; 4) employed 80 hours a month; or 5) determined incapable of any of the above due to a documented medical condition (section 475(B)(B)(iv) of the Act). Further information on this option will be issued at a later date.

Also beginning October 1, 2010, a title IV-E agency may not provide a kinship guardianship assistance payment if the agency determines that the relative guardian is no longer legally responsible for the support of the child or if the child is no longer receiving any support from the relative guardian. A relative guardian who receives kinship guardianship assistance payments on behalf of a child must keep the title IV-E agency administering the guardianship assistance program informed of circumstances which would make him/her ineligible for payments or eligible for the payments in a different amount (sections 473(a)(4)(A) and (B) of the Act).

**Administration and Training**

A title IV-E agency that is operating a title IV-E GAP may claim allowable administrative and training costs for the proper and efficient administration of the guardianship assistance program. These costs may be claimed in accordance with an approved public assistance cost allocation plan as per Departmental regulations at 45 CFR 95.507 at the following Federal financial participation (FFP) rates:

- 50% for nonrecurring expenses up to $2,000 as well as administrative costs related to child placement and administration of the GAP pursuant to section 474(a)(3)(E) of the Act;
- 75% for short and long-term training of GAP personnel employed or preparing for employment by the public agency pursuant to section 474(a)(3)(A) of the Act;
- 75% for short-term training of prospective or existing foster parents pursuant to section 474(a)(3)(B) of the Act;
- 55% for short-term training of (among other individuals identified in the Act) relatives who have assumed guardianship in FY 2009, increasing by five percent each fiscal year until it reaches 75% in FY 2013, pursuant to section 474(a)(3)(B) of the Act and 203(b) of P.L. 110-351.
- 50% for Statewide Automated Child Welfare Information System (SACWIS) costs pursuant to 474(a)(3)(D) and (E) of the Act and, if required under 45 CFR 95.601, an approved Advanced Planning Document.

Allowable training costs and activities associated with the GAP may be claimed at the applicable FFP rate and must be addressed in the title IV-E agency’s title IV-B training plan in accordance with 45 CFR 1356.60(b)(2) and in an approved cost allocation plan.

**Title IV-E Guardianship Waiver Demonstration Projects**

States with approved waiver demonstration projects providing guardianship assistance or services pursuant to section 1130 of the Act may continue to operate such projects in accordance with the existing applicable terms and conditions. Upon termination of such a project, the title IV-E State agency may continue to claim title IV-E and provide Medicaid if applicable, for the same assistance and services under the same terms and conditions that a child received under a guardianship demonstration project as of September 30, 2008. This claiming authority exists whether or not the State opts to operate a GAP pursuant to 473(d) of the Act (section 474(g) of the Act).
Financial Reporting

Until a revised form ACF-IV-E-1 is issued, title IV-E agencies should report GAP expenditures consistent with this PI as a component of and in the same manner as adoption assistance program expenses. To the extent that training costs are incurred where the transitional FFP rate of 55% or higher is applicable, the costs are to be reported as part of "State and Local Training" with the reported amounts in the Federal share columns reflecting the actual total claimed FFP (combination of amounts subject to 75% and 55%). The form ACF-IV-E-1 must be supplemented with information to clearly identify (on a line by line basis) the portion of reported adoption assistance program expenditures that support the GAP. Further guidance on the submission of the ACF-IV-E-1, and clarifying the provisions of ACF-PI-10-04 which are superseded by this Policy Instruction, is forthcoming under separate cover.

Effective Date for Implementation of Guardianship Assistance Program

The State or Tribal title IV-E agency may implement and claim allowable guardianship assistance program costs beginning on the first day of the quarter in which an approvable title IV-E plan amendment is submitted to ACF to implement the GAP (45 CFR 1356.20(d)(8)). Allowable administrative costs for the title IV-E GAP can be claimed pursuant to an amended and approved public assistance cost allocation plan (PACAP) or a pending PACAP in some situations (45 CFR 95.515).

A State or Tribe with an approved title IV-E plan amendment may claim title IV-E on or after the first day of the quarter in which the approved title IV-E plan amendment was submitted to ACF (sections 471(a)(28) and 473(d)(1)(A) of the Act). The requirement for the agency to negotiate and enter into a guardianship assistance agreement with a prospective relative guardian prior to the legal guardianship per section 473(d)(1)(A) of the Act may be satisfied by agreements entered into prior to the title IV-E plan submission if they also meet or are amended to meet the requirements of section 473(d)(1)(B) and (C) of the Act prior to claiming costs for title IV-E. Additionally, a child may satisfy the requirement pursuant to section 473(d)(3)(A)(i)(II) of the Act (eligibility for title IV-E foster care maintenance payments while residing in the home of the prospective relative guardian for six-consecutive months) prior to the first day of the quarter in which an approvable title IV-E plan amendment is submitted to ACF to implement the GAP.

INSTRUCTIONS: Plan Submissions

Each title IV-E agency that elects to operate a guardianship assistance program must submit to ACF a title IV-E plan pre-print amendment that reflects the title IV-E statutory requirements for a GAP. In completing the amendment, title IV-E agencies must record the applicable statutory, regulatory or policy references and citations for the affected Federal requirement. Title IV-E agencies may submit their title IV-E plan amendment using the preprint attached to ACF-CB-PI-09-01 (section 6), an electronic version of which can be found at the Children's Bureau web page at: http://www.acf.hhs.gov/programs/cb. Title IV-E agencies may use a different format, provided that the format used includes all of the applicable title IV-E plan requirements of the Act as set forth in the new law. If a title IV-E agency chooses to use its own format, it must include all applicable statutory, regulatory or policy references and citations for each requirement.

To the extent that a title IV-E agency seeks to claim title IV-E for children in guardianships in effect prior to the title IV-E plan amendment, the agency must submit a description to ACF that explains the process it will use to ensure that claims will be submitted on behalf of only those children who meet all GAP eligibility criteria. ACF may question costs and if necessary, defer payment consistent with 45 CFR 201.15, until it has such documentation that confirms that the title IV-E agency has a reasonable process in place to support such claims.

Title IV-E agencies that elect to provide a GAP must submit the completed title IV-E plan pre-print to the appropriate ACF Regional Program Manager for approval. The completed plan amendment may be submitted at any time. Please note that the plan amendment must be submitted electronically or on a compact disk. Where title IV-E agencies are unable to submit electronic signatures for purposes of certification, they may submit the appropriate pages with original signatures. In addition, title IV-E agencies must submit copies of referenced material to document compliance for any cited statute, regulation, policy and procedure.

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Federal Support to States for Kinship Guardianship Assistance. State child welfare agencies will have the option to use federal funds for kinship guardianship assistance to help children leave foster care to live permanently with relatives. The children must have been cared for by prospective relative guardians in foster care for six consecutive months and the children must be eligible for federal foster care payments in the home of the relative caregiver. Before offering kinship guardianship assistance, state agencies must determine that reunification and adoption are not appropriate options for these children. They must document efforts to discuss adoption with the relatives and kinship guardianship with the child’s birth parent. Children ages 14 and older must be consulted about guardianship arrangements. Children living with relative guardians will be eligible for Medicaid and a cash payment that may not exceed the foster care payment. Generally, children are eligible to receive guardianship assistance to age 18. However, in certain circumstances, children may be eligible to continue to receive guardianship assistance to age 21. Currently 37 states and the District of Columbia have subsidized guardianship programs. Federal support for such programs will help them reach more children. All children receiving support for subsidized guardianship payments and services in a state under a federal child welfare waiver on September 30, 2008 will be automatically eligible to continue this support if the state decides to provide kinship guardianship assistance under the act.
(d) KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR CHILDREN—

(1) KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT—

(A) IN GENERAL— In order to receive payments under section 474(a)(5), a State shall—

(i) negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective relative guardian of a child who meets the requirements of this paragraph; and

(ii) provide the prospective relative guardian with a copy of the agreement.

(B) MINIMUM REQUIREMENTS- The agreement shall specify, at a minimum—

(i) the amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child;

(ii) the additional services and assistance that the child and relative guardian will be eligible for under the agreement;

(iii) the procedure by which the relative guardian may apply for additional services as needed; and

(iv) subject to subparagraph (D), that the State will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed $2,000.

(C) INTERSTATE APPLICABILITY- The agreement shall provide that the agreement shall remain in effect without regard to the State residency of the relative guardian.

(D) NO EFFECT ON FEDERAL REIMBURSEMENT- Nothing in subparagraph (B)(iv) shall be construed as affecting the ability of the State to obtain reimbursement from the Federal Government for costs described in that subparagraph.

(2) LIMITATIONS ON AMOUNT OF KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT- A kinship guardianship assistance payment on behalf of a child shall not exceed the foster care maintenance payment which would have been paid on behalf of the child if the child had remained in a foster family home.

(3) CHILD’S ELIGIBILITY FOR A KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT-

(A) IN GENERAL- A child is eligible for a kinship guardianship assistance payment under this subsection if the State agency determines the following:

(i) The child has been—

(I) removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

(II) eligible for foster care maintenance payments under section 472 while residing for at least 6 consecutive months in the home of the prospective relative guardian.

(ii) Being returned home or adopted are not appropriate permanency options for the child.
(iii) The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child.

(iv) With respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement.

(B) TREATMENT OF SIBLINGS- With respect to a child described in subparagraph (A) whose sibling or siblings are not so described--

(i) the child and any sibling of the child may be placed in the same kinship guardianship arrangement, in accordance with section 471(a)(31), if the State agency and the relative agree on the appropriateness of the arrangement for the siblings; and

(ii) kinship guardianship assistance payments may be paid on behalf of each sibling so placed.

(e) APPLICABLE CHILD DEFINED-

(1) ON THE BASIS OF AGE-

(A) IN GENERAL- Subject to paragraphs (2) and (3), in this section, the term 'applicable child' means a child for whom an adoption assistance agreement is entered into under this section during any fiscal year described in subparagraph (B) if the child attained the applicable age for that fiscal year before the end of that fiscal year.

(B) APPLICABLE AGE- For purposes of subparagraph (A), the applicable age for a fiscal year is as follows:

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<th>In the case of fiscal year:</th>
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(2) EXCEPTION FOR DURATION IN CARE- Notwithstanding paragraph (1) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child--

(A) has been in foster care under the responsibility of the State for at least 60 consecutive months; and

(B) meets the requirements of subsection (a)(2)(A)(ii).

(3) EXCEPTION FOR MEMBER OF A SIBLING GROUP- Notwithstanding paragraphs (1) and (2) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section without regard to whether the child is described in paragraph (2)(A) of this subsection if the child--

(A) is a sibling of a child who is an applicable child for the fiscal year under paragraph (1) or (2) of this subsection;
(B) is to be placed in the same adoption placement as an applicable child for the fiscal year who is their sibling; and

(C) meets the requirements of subsection (a)(2)(A)(ii).
Clarifies That States May Waive Non-Safety Related Licensing Standards for Relative Homes On a Case-by-Case Basis. Currently certain licensing standards applied to all foster parents create special barriers for foster parents who are related to the child. Most often these rules are related to physical conditions in the home, such as requirements that there be a separate bedroom for each child or a certain amount of square footage in the home. Current guidance clarifies that such standards can be waived in individual cases, but now it is explicit in this new law. The new law also requires the Department of Health and Human Services to report to Congress on the use of licensing waivers and recommendations for increasing the percentage of relative foster family homes that are licensed.

Section 471(a)(10) of the Social Security Act provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title, and provides that a waiver of any such standard may be made only on a case-by-case basis for non-safety standards (as determined by the State) in relative foster family homes for specific children in care;“;

SEC. 104. LICENSING STANDARDS FOR RELATIVES.
(a) STATE PLAN AMENDMENT.—Section 471(a)(10) of the Social Security Act (42 U.S.C. 671(a)(10)) is amended—
(1) by striking “and provides” and inserting “provides”;
and
(2) by inserting before the semicolon the following: “, and
provides that a waiver of any such standard may be made only on a case-by-case basis for non-safety standards (as determined by the State) in relative foster family homes for specific children in care”.
(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that includes the following:
(1) Nationally and for each State, the number and percentage of children in foster care placed in licensed relative foster family homes and the number and percentage of such children placed in unlicensed relative foster family homes.
(2) The frequency with which States grant case-by-case waivers of non-safety licensing standards for relative foster family homes.
(3) The types of non-safety licensing standards waived.
(4) An assessment of how such case-by-case waivers of non-safety licensing standards have affected children in foster care.
care, including their safety, permanency, and well-being.
(5) A review of any reasons why relative foster family homes may not be able to be licensed, despite State authority to grant such case-by-case waivers of non-safety licensing standards.
(6) Recommendations for administrative or legislative actions that may increase the percentage of relative foster family homes that are licensed while ensuring the safety of children in foster care and improving their permanence and well-being.