
**ORANGE COUNTY SOCIAL SERVICES AGENCY
CFS OPERATIONS MANUAL**

Effective Date: April 19, 2012

Number: K-0402

Legal Guardianship—Dependents

Purpose	To provide guidelines to establish Legal Guardianship (LG) of a dependent child of the Juvenile Court (Court).
Approved	This policy was approved by Gary Taylor, Director of CFS, on, April 19, 2012. <i>Signature on file.</i>
Most Recent Revision	This revision of the Policy and Procedure (P&P) clarifies guidelines regarding completion of criminal and child abuse clearances, as part of the guardianship assessment, when the prospective legal guardian is a relative or non-relative extended family member (NREFM).
Background	<p>A permanent plan of LG will only be established for a dependent child in out-of-home care, if the child is unable to reunify with their parents and Adoption (termination of parental rights) is not in the child's best interest. This policy details the process of establishing LG involving a current dependent of the Court. This includes determining the appropriateness of LG, providing required disclosures to prospective legal guardians, completion and documentation of an assessment of each prospective legal guardian, and preparation of <i>Letters of Guardianship (JV 330)</i> and associated visitation orders to be submitted to Court.</p> <p>Refer to CFS P&P Kin-GAP (H-0113) to implement Kin-GAP assistance for a relative legal guardian. Refer to CFS P&P Legal Guardianship—Non-Dependents (K-0404) to provide services to a non-relative legal guardian when the child is a non-dependent and/or dependency has been terminated.</p>

Legal Mandates [Welfare and Institutions Code \(WIC\) section \(§\) 17.1\(a\)](#) provides the residence of a child is determined by the residence of the individual who has been appointed legal guardian.

[Welfare and Institutions Code § 360\(a\)](#) provides that LG may be established at a Dispositional hearing, and details the provisions that would allow for a relative legal guardian appointed at the Dispositional hearing to be eligible for Kin-GAP.

[Welfare and Institutions Code § 361.3](#) details factors to consider when assessing a relative who is a prospective legal guardian.

[Welfare and Institutions Code § 361.4](#) details criminal and child abuse background clearances to be completed when assessing a prospective legal guardian.

[Welfare and Institutions Code §§ 361.5\(g\), 366.21\(i\), 366.22\(c\), and 366.25\(b\)](#) detail the required permanency options advisement and guardianship assessment to be completed for any prospective legal guardian when a WIC § 366.26 hearing has been calendared.

[Welfare and Institutions Code § 362.1\(b\)](#) provides a child's sibling relationships be considered when developing a permanent plan.

[Welfare and Institutions Code §§ 366.21\(j\), 366.22\(d\), and 366.25\(c\)](#) provide following establishment of LG at a WIC § 366.26 hearing and termination of dependency, a relative legal guardian is eligible for Kin-GAP.

[Welfare and Institutions Code § 366.26](#) details the order of preference in selecting a permanent plan, conduct of the WIC § 366.26 hearing, and visitation orders to be made when LG is established.

[Welfare and Institutions Code § 366.3](#) provides dependency may be terminated or continued following establishment of LG and details conduct of the Periodic Review hearing if dependency continues. Also details process to terminate LG, reinstate dependency, and/or change a previously established permanent plan of LG.

[Welfare and Institutions Code 366.4](#) provides a LG established pursuant to WIC § 366.26 will remain under Court jurisdiction.

[Welfare and Institutions Code § 10609.45](#) provides former dependent children placed with a non-relative legal guardian are eligible for Independent Living Program (ILP) services.

[Welfare and Institutions Code §§ 11360, 11361, 11362, 11363, 11364, and 11374](#) establish Kin-GAP for relative legal guardians and delineate eligibility requirements and payment rates. For further information, refer to:

- [All County Letter 98-34](#)
- [All County Letter 01-64](#)
- [All County Letter 11-15](#)
- [All County Letter 11-67](#)

[Welfare and Institutions Code §§ 11375 and 11376](#) and [California Department of Social Services, Manual of Policies and Procedures 31-525.3](#) provide a child in receipt of Kin-GAP benefits is eligible to receive ILP services and certain mental health services.

[Welfare and Institutions Code §§ 11402, 11404.1, and 11405](#) provide non-relative legal guardians are eligible for Aid to Families with Dependent Children (AFDC)–Foster Care (FC) assistance.

[Welfare and Institutions Code § 11461](#) determines the basic and supplemental rates for a child placed in an approved home with a relative or non-relative legal guardian.

[Welfare and Institutions Code § 16002](#) provides information regarding Court-ordered sibling visitation be provided to a legal guardian and that a legal guardian may comment on any Case Plan provisions for sibling interaction.

[Family Code § 302](#) provides that to obtain a Court order granting permission for an underage person to marry, written consent may be provided by a legal guardian.

[Family Code § 3030](#) details exclusions to granting physical/legal custody of a child based upon certain criminal offenses (e.g., willful harm/injury to child, murder, rape).

[Family Code § 7505](#) provides the authority of a parent ceases upon appointment of a legal guardian.

[Vehicle Code §§ 17707 and 17708](#) and [All County Letter 93-06](#) provide an application for a driver's license for a minor may be signed by a legal guardian, and that the legal guardian is liable for any damages resulting from negligent or wrongful actions of the minor, while driving.

[Education Code § 48853](#) details involvement of a legal guardian in determining a child's educational placement.

[Civil Code § 1714.1](#) provides, for the purposes of civil damages, a legal guardian is jointly liable for any damages/injury/death resulting from a child's willful misconduct.

[42 United States Code § 402](#) authorizes the State of California to operate a foster care and adoption assistance program.

[42 United States Code § 677](#) enables the State of California to provide ILP services to a child, who, after attaining 16 years of age, has left foster care for kinship guardianship.

In re M.R. (2005) 132 Cal. App. 4th 269 provides a visitation order associated with LG may not delegate authority to the legal guardian to decide whether visitation with a parent will occur, and must specify the frequency and duration of visits.

In re S.H. (2011) held that if LG is terminated, the Court must consider reunification with the parents pursuant to WIC § 366.3, even if reunification services were originally bypassed for the parents pursuant to WIC § 361.5(b).

Definitions

Legal Guardian: A person who is given the legal authority and responsibility to care for a child.

POLICY

Order of Preference for Permanent Plan

The order of preference for recommending a permanent plan, from most desirable to least desirable, is as follows:

- A. Adoption with identified prospective adoptive placement. (This may include, for an Indian child, a plan of Tribal Customary Adoption. See CFS P&P [Tribal Customary Adoption \[C-0705\]](#) for further information.)

- B. LG with a current relative caregiver (i.e., kinship guardianship).

Note: A relative caregiver's preference for LG over Adoption, if due to circumstances that do not include an unwillingness to accept legal or financial responsibility for a child, is not a sufficient reason to recommend removal from the relative caregiver for the purposes of adoptive placement.

- C. Adoption as the permanent plan, with a continuance of the WIC § 366.26 hearing for 180 days to identify a prospective adoptive placement.
- D. LG with a non-relative.
- E. Long-Term Foster Care (LTFC).

See CFS P&Ps [WIC 366.26 Report \(G-0312\)](#) and [Permanent Planning Assessments \(PPAs\) \(G-0313\)](#) to determine the most appropriate permanent plan for a child.

Note: When reunification efforts are not successful, a Permanency Planning Team Decision Making (TDM) Meeting will be convened, pursuant to CFS P&P [Team Decision Making \(D-0308\)](#). The Permanency Planning TDM will assist in determining the most appropriate permanent plan for a child and services needed to support the permanent plan chosen.

Permanent Placement Assessment

The *Permanent Planning Assessment (F0912-18-242)* prepared jointly by the assigned social worker and the assigned Adoption supervisor will form the basis to recommend LG as a child's permanent plan. See CFS P&P [Permanent Planning Assessments \(PPAs\) \(G-0313\)](#) for timelines and information on this process.

The reasons for recommending LG must be clearly documented in the **PERMANENCY PLANNING ASSESSMENT** sections of the court report prepared for the WIC § 366.26 hearing and include:

- Information as to why termination of parental rights is not in the child's best interest
- Advisement to the Court that a prospective legal guardian has been identified for the child

Required Disclosures

- A. A prospective legal guardian will be given *Rights and Responsibilities—Adoption, Legal Guardianship, and Long Term Foster Care (F0912-25-294)* and *Financial Comparisons—Adoption, Legal Guardianship, and Long Term Foster Care (F063-25-562)* before the social worker makes a recommendation for a permanent plan of LG.

See CFS P&P [Concurrent Planning \(D-0202\)](#) for additional policies and procedures related to required forms and disclosures.

- B. A prospective legal guardian and any other adult residing in the household will be informed of the guardianship assessment process required prior to recommending LG be established. This disclosure will inform that:
- New criminal and child abuse background clearances will be completed on all adults (and certain children over 14 years of age) in the home, as detailed in the Policy section “Criminal and Child Abuse Clearances.” (**Note:** Refer to [Attachment 7—Parties Subject to Live Scan Clearances](#) of CFS P&P [Live Scan Fingerprinting \[B-0115\]](#) for parties subject to Live Scan)
 - Information obtained for assessment purposes will be included in the guardianship assessment prepared for Court, including:
 - Results of the background clearances completed on all adults in the home
 - Information obtained regarding any child in the home (14 years of age and older), that impacts the safety of the home

The date and method of notification (e.g., telephone, in-person, etc.) will be documented in the narrative section of the CWS/CMS Contact page.

In addition, a copy of the *Legal Guardianship Assessment—Acknowledgement and Advisement (F063-25-531)* will be provided to each prospective legal guardian prior to beginning the assessment process. A signed copy will be retained in the child’s Service File on the *Guardianship Acco (F063-25-1136)*.

- C. A prospective legal guardian who is a relative receiving AFDC-FC or CalWORKs assistance will be provided:

- A completed *Agency–Relative Guardianship Disclosure (SOC 369)*
- A completed *Kinship Guardianship Assistance Payment (Kin-GAP) Program Agreement Amendment (SOC 369A)*

Prior to recommending LG as the permanent plan, the assigned social worker will:

- Review the forms with the prospective legal guardian and obtain signature
- Advise the prospective legal guardian that eligibility for the foster care payment rate or CalWORKS assistance will end once LG is established and dependency is terminated

Refer to CFS P&P [Kin-GAP \(H-0113\)](#) for further guidelines.

- D. A caregiver expressing an interest in making a permanent commitment to a child may be provided with a copy of the *Guardianship Pamphlet (JV 350)* early in the dependency process.

Documentation of Disclosure Information

All information and forms provided to the prospective legal guardian will be documented in:

- The narrative section of the CWS/CMS Contact page
- The guardianship assessment prepared for court

Criminal and Child Abuse Clearances

New criminal and child abuse background clearances will be completed on all adults (and children over 14 years of age, if it is believed the child has a record) in the home of a prospective legal guardian.

Note: *New* clearances may not be required if the prospective legal guardian is a relative or NREFM caregiver, and the appropriate clearances were completed at the time of initial placement. The assigned SSW will contact the Relative Assessment Unit (RAU) to determine if clearances were previously completed. If so, results of prior clearances will be used to complete the guardianship assessment.

Unless otherwise specified, *new* criminal clearances will be obtained from each of the following:

- California Law Enforcement Telecommunications System (CLETS) screening (see CFS P&P [CLETS \[B-0116\]](#))
 - New CLETS screening is not required if the prospective legal guardian is a relative or NREFM caregiver, and a CLETS screening was completed at the time of initial placement
- Federal Bureau of Investigations (FBI) and Department of Justice (DOJ) via Live Scan screening and sub-arrest notification (see CFS P&P [Live Scan Fingerprinting \[B-0115\]](#))
 - New Live Scan is not required if the prospective legal guardian is a relative or NREFM caregiver, and a Live Scan (with Sub-Arrest notification) was completed at the time of initial placement
- Name and Residential Address search using the [California Megan's Law Sex Offender Locator Database](#)
- Department of Motor Vehicles (DMV) (see CFS P&P [DMV Clearances \[B-0107\]](#))

Unless otherwise specified, *new* child abuse background clearances will be obtained from each of the following:

- Child Abuse Central Index (CACI) via Live Scan screening and sub-arrest notification
 - New CACI clearance is not required if the prospective legal guardian is a relative or NREFM caregiver and a Live Scan (with Sub-Arrest notification) was completed at the time of initial placement
- Child abuse reports in CWS/CMS
- The Child Abuse Registry of any other state, if the prospective legal guardian or any adult living in their home has lived in that other state within the past five years (see CFS P&Ps [Foster Home Licensing \[K-0604\]](#) and [Clearances—Relative Assessments \[K-0101\]](#))
- “Quality of Care” complaints in:
 - Licensing file (for all licensed foster parents)
 - Foster Youth Information (FYI) database (for all Foster Family Agency [FFA] homes)
 - CWS/CMS (for child abuse reports taken as a “Quality of Care” issue for a caregiver)

A recommendation for LG will not be made until all background clearances have been received and reviewed. See Policy section “Assessment of Prospective Legal Guardian.”

Assessment of Prospective Legal Guardian

When recommending LG, the WIC § 366.26 Report must contain a thorough, completed assessment of each prospective legal guardian, completed by the assigned social worker.

Note: In the event LG is established at a hearing other than the WIC § 366.26 (Selection and Implementation) hearing, the court report prepared for the hearing will include the guardianship assessment.

The guardianship assessment will:

- A. Be completed pursuant to the guidelines and format detailed in [Attachment 1—Assessment of Prospective Legal Guardian](#).

Exception: See [Attachment 5—Guardianship Suitability Study \(WIC § 360\[a\]\)](#) to CFS P&P [Jurisdictional/Dispositional Hearing Report \(G-0310\)](#) for guidelines to establish voluntary LG with a relative/non-relative at a Jurisdictional/Dispositional hearing.

- B. Address relevant information, issues, or concerns that may impact the proposed LG.
- C. Not include any identifying/contact information regarding the prospective legal guardian or other adult member of the household (including any child age 14 years of age and older).

If information is omitted or modified to protect confidentiality, the following statement will be included, wherever relevant:

“Identifying information has been omitted or changed solely for the purpose of protecting the identity of the prospective legal guardian, or a member of the prospective legal guardian’s household.”

- D. Only be modified by the author of the assessment. If modification to the assessment is requested, consult the author preparing the assessment.
- E. Incorporate the results of all criminal and child abuse clearances completed on each adult in the home. The criminal record of a child over 14 years of age in the home will *only* be included in the assessment if the child’s record impacts the safety of the home and/or the plan of LG. Refer to [Attachment 1—Assessment of Prospective Legal Guardian](#)

for sample language to document background clearances in the guardianship assessment.

Note: If the prospective legal guardian is a relative or NREFM caregiver, results of the CLETS and Live Scan screenings completed at the time of initial placement will be incorporated into the guardianship assessment.

A recommendation for appointment of a legal guardian will not be made until the guardianship assessment is completed and all results of background clearances have been received and reviewed. If any background clearance results are not available by the WIC § 366.26 hearing filing deadline, the social worker will request a continuance to obtain the results. If the results become available between the filing deadline and the WIC § 366.26 hearing date, an addendum report with a new recommendation to appoint a legal guardian may be submitted to Court.

Other Required Documentation in the WIC § 366.26 Report

When recommending LG as the permanent plan, specific information, in addition to the assessment of each prospective legal guardian, will be addressed in the WIC § 366.26 Report including:

- Search efforts to locate absent parents (if any)
- Evaluation of the child
- Review of the frequency/nature of contact between the child and birth/extended family since the time of placement in out-of-home care
- Specific recommendation for visitation between the child and the parents. (**Note:** See Policy section “Visitation Orders” for further information)

See CFS P&P [WIC 366.26 Report \(G-0312\)](#) for additional information on writing the WIC § 366.26 Report.

Financial Assistance for Day-to-Day Care

The assigned social worker must be sure financial assistance is available prior to recommending a permanent plan of LG.

Due to the complexity and changing nature of funding for legal guardians, the assigned social worker will contact the child’s foster care Eligibility Technician (ET) to determine eligibility for financial assistance.

Information regarding eligibility for financial assistance will be shared with the prospective legal guardian.

For a more complete discussion of these issues and other financial considerations, see *Financial Comparisons—Adoption, Legal Guardianship, and Long Term Foster Care (F063-25-562)* and CFS P&P [Kin-GAP \(H-0113\)](#), as well as the “Required Disclosures” section of this policy above.

Note: A legal guardian will be encouraged to research funding resources and options when considering a potential move to another county or state.

Letters of Guardianship

It is the responsibility of the assigned social worker to ensure signed *Letters of Guardianship (JV 330)* are at Court 10 calendar days prior to the scheduled hearing at which LG will be established. See the Procedure section of this policy for information on preparing and submitting *Letters of Guardianship (JV 330)*.

Visitation Orders

A visitation order for parents (specifying frequency and duration of visits) must be made whenever Court establishes LG unless ongoing visitation is detrimental to the child's physical/emotional well-being.

Note: If visitation will not be recommended, the court report must document the reason(s) visitation would be detrimental to the child's physical/emotional well-being.

If termination of dependency will be recommended at the time LG is established, the assigned social worker will request a visitation order for parents by completing a *Visitation Attachment (JV 400)*, which will be:

- Attached to a GOOD CAUSE ORDER for “POST-DEPENDENCY PARENTAL VISITATION ORDERS”
- Submitted to Court, with the *Letters of Guardianship (JV 330)*, at the hearing to establish LG

See the Procedure section of this P&P for further information on preparing and submitting the *Visitation Attachment (JV 400)*.

If termination of dependency will not be recommended at the time LG is established, visitation for parents will be specified in the Case Plan. At any subsequent hearing to terminate dependency for a dependent child, the assigned social worker will request a visitation order for parents by completing a *Visitation Attachment (JV 400)*, which will be:

- Attached to a GOOD CAUSE ORDER for “POST-DEPENDENCY PARENTAL VISITATION ORDERS”
- Submitted to Court at the hearing to terminate dependency

Child Support Referrals

Per CFS P&P [Child Support Referrals \(H-0121\)](#), when the permanent plan for a child is LG, the assigned social worker will determine whether it is in the best interest of the child to have the case referred to the local child support agency. This determination will take into account whether payment of support by the parent would impact the stability of the child’s current placement and/or the plan of LG.

The “Child Support Payments” Policy section in CFS P&P [Legal Guardianship—Non-Dependents \(K-0404\)](#) provides guidelines for child support referrals for a non-relative legal guardian receiving AFDC-FC assistance. CFS P&P [Kin-GAP \(H-0113\)](#) provides guidelines for child support referrals for a relative legal guardian receiving Kin-GAP assistance.

Note: Per [All County Letter 05-37](#), if a child receiving Kin-GAP assistance enters or re-enters foster care and receives AFDC-FC assistance, the local child support agency will be notified that Kin-GAP benefits have been discontinued.

Continuing Dependency

In most instances, the social worker will make a recommendation to terminate dependency in conjunction with a recommendation to appoint a legal guardian for a child. With Program Manager approval, it may be appropriate to recommend continued dependency under the following circumstances:

- LG is clearly in the best interest of the child, however, the accompanying loss of foster care funding would create a financial hardship
- The child has special needs and continuation of dependency enables the facilitation, coordination, and delivery of services which could not otherwise occur if dependency were terminated
- The relationship between the child and the birth parent cannot be managed independently by the legal guardian

Prior to establishment of LG, any party to the guardianship may request that dependency continue. The Court may also decide on its own motion that it is in the best interests of the child to continue dependency.

Note: Per WIC § 366.3(a), if LG with a relative is established, dependency will be terminated unless the relative legal guardian objects or the Court finds that exceptional circumstances warrant continued dependency.

If dependency remains open following appointment of a legal guardian:

- The case will be supervised in a manner consistent with the supervision of LTFC cases
- A Periodic Review hearing will be calendared every six months to determine the continued appropriateness of maintaining dependency (see CFS P&P [Periodic Review Report \(G-0311\)](#))
- An annual placement assessment of the legal guardian's home will be completed pursuant to guidelines detailed in CFS P&P [Relative/NREFM Placement Assessments \(K-0105\)](#)
 - The placement assessment is required for any relative, NREFM, licensed foster parent, or certified (Foster Family Agency) foster parent appointed legal guardian
 - If an initial placement assessment has not been completed, submit *Relative/NREFM Clearance & Assessment Referral (F063-04-815A)* to Placement Services In-Box

For guidelines regarding eligibility for extended foster care (EFC) and non-minor dependency, as it relates to LG cases, refer to "EFC—General Guidelines" Policy section in CFS P&P [Extended Foster Care \(EFC\) \(J-0101\)](#).

Reinstating Dependency

Dependency, once terminated, can be reinstated as a result of:

- A. A new Child Abuse Report resulting in the filing of an *Application for Petition (F063-28-43)* and a subsequent decision by the Court to sustain a WIC § 300 Petition and reinstate dependency.

Upon reinstating dependency when a petition has been sustained, the Court may:

- Maintain the LG, leave custody with the legal guardian, and offer him/her Family Maintenance (FM) services
- Terminate the LG, remove the child from the custody of the legal guardian, and offer Family Reunification (FR) services to the former legal guardian
- Terminate the LG and order development of a new

permanent plan within 60 days, at which time the Court will try to place the child in another permanent placement

- Appoint an alternative legal guardian or co-guardian. (**Note:** A newly appointed relative guardian may receive Kin-GAP assistance, even if the child has not been placed with the relative for six consecutive months prior to appointment of the LG, *if* a guardianship assessment is completed in accordance with this policy and dependency is terminated upon appointment of the new legal guardian)
- Terminate the LG and, unless parental rights have been terminated, order that further FR services be provided to the parent(s) for a period not to exceed six months

- B. A request by the legal guardian, made either by filing their own petition or asking for CFS assistance in petitioning the Court to reinstate dependency (usually made in conjunction with a request to terminate the LG; see Policy section “Terminating Guardianship” for further information).

Note: In most cases, the legal guardian is responsible for taking action to reinstate dependency on his/her own or through his/her own attorney by filing a *Request to Change Court Order (JV 180)*.

- C. A CFS request to reinstate dependency, by filing a *Request to Change Court Order (JV 180)*, because it is in the child’s best interest to do so.

See Procedure section entitled “Set Aside Legal Guardianship” in CFS P&P [Legal Guardianship—Non-Dependents \(K-0404\)](#) for further information on reinstating dependency.

Note: If dependency is reinstated for a child receiving Kin-GAP assistance, and the child remains placed with his/her relative following reinstatement of dependency, the child will no longer be eligible to receive AFDC-FC assistance. In such instances CalWORKs assistance will be provided, based on a re-determination of eligibility using the month dependency is reinstated.

Changing the Permanent Plan

It may become necessary or desirable to change the permanent plan from LG to Adoption or LTFC.

In other instances, if a parent has provided proof to the Court that there has been a change in their circumstances and that the child should be returned to his/her care, a new plan of FM may be appropriate.

In general, the person desiring the change in the plan is responsible for filing the *Request to Change Court Order (JV 180)* to set aside the LG. However, if the assigned social worker believes the child's permanent plan of LG is no longer appropriate and that the suggested change is in the best interest of the child, the social worker will file the request.

Note: See the Policy section "Recommendation Considerations" in CFS P&P [Periodic Review Report \(G-0311\)](#) for further guidelines to request a change in the permanent plan of a dependent child.

See the Policy section "Terminating Guardianship" and the Procedure section for additional information on setting aside LG.

Terminating Guardianship

The following parties may request that Court terminate or set aside a LG by filing a *Request to Change Court Order (JV 180)*:

- Birth parent
- Legal guardian
- Any person with an interest in the child
- CFS

Generally, the legal guardian, birth parent, or other interested party is responsible for filing the *Request to Change Court Order (JV 180)* to terminate LG. In cases where CFS determines it is in the child's best interest to facilitate termination of LG, CFS may assist in filing the *Request to Change Court Order (JV 180)*. Proceedings to terminate LG will be held in Juvenile Court. See the Procedure section of this policy for additional information on this process.

Pursuant to WIC 366.3(b) and (f), unless parental rights have been terminated, whenever LG is set aside, the parents will be:

- Provided notice of any petition/hearing to terminate LG
- Entitled to participate in any new permanency planning hearing
- Considered for further provision of FR services, even if FR services were originally bypassed. (**Note:** FR services will not be ordered for a parent unless Court finds, by a preponderance of evidence, that further efforts at reunification are the best alternative for the child)

REFERENCES

Attachments and CWS/CMS Data Entry Standards

Hyperlinks are provided below to access attachments to this P&P and any CWS/CMS Data Entry Standards that are referenced.

- [Attachment 1—Assessment of Prospective Legal Guardian](#)
 - [CWS/CMS Data Entry Standards—Legal Guardianship](#)
 - [EZ Mapping for CMS Case Plan—Initial](#)
 - [EZ Mapping for CMS Case Plan—Update](#)
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Hyperlinks

Users accessing this document by computer may create a direct connection to the following references by clicking on them.

- CFS P&P [Abuse Investigations—Findings, Documentation and Cross Reporting \(A-0305\)](#)
 - CFS P&P [Abuse Investigations—Protective Intervention \(A-0414\)](#)
 - CFS P&P [Abuse Investigations—Practice Guidelines \(A-0412\)](#)
 - CFS P&P [Case Closure \(E-0106\)](#)
 - CFS P&P [Case Transfers \(D-0302\)](#)
 - CFS P&P [Clearances—Relative Assessment \(K-0101\)](#)
 - CFS P&P [Concurrent Planning \(D-0202\)](#)
 - CFS P&P [Foster Home Licensing \(K-0604\)](#)
 - CFS P&P [DMV Clearances \(B-0107\)](#)
 - CFS P&P [Jurisdictional/Dispositional Hearing Report \(G-0310\)](#)
 - CFS P&P [Kin-GAP \(H-0113\)](#)
 - CFS P&P [Legal Guardianship—Non-Dependents \(K-0404\)](#)
 - CFS P&P [Live Scan Fingerprinting \(B-0115\)](#)
 - CFS P&P [Notices of Hearing \(G-0507\)](#)
 - CFS P&P [Periodic Review Report \(G-0311\)](#)
 - CFS P&P [Permanent Planning Assessments \(PPAs\) \(G-0313\)](#)
 - CFS P&P [Placement Change Notification \(K-0209\)](#)
 - CFS P&P [Relative/NREFM Placement Assessments \(K-0105\)](#)
 - CFS P&P [Team Decision Making \(D-0308\)](#)
 - CFS P&P [Tribal Customary Adoption \(C-0705\)](#)
 - CFS P&P [WIC 366.26 Report \(G-0312\)](#)
 - CFS P&P [Extended Foster Care \(EFC\) \(J-0101\)](#)
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Other Sources Other printed references include the following:

- CFS Foster Care Program Development P&P Intercounty Transfers and County of Responsibility (45-201.13)
- CFS Foster Care Program Development P&P Legal Guardians (45-202.62)

REQUIRED FORMS

Online Forms Required forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.

Form Name	Form Number
Letters of Guardianship	JV 330
Kinship Guardianship Assistance Payment (Kin-GAP) Program Agreement Amendment	SOC 369A
Agency-Relative Guardianship Disclosure Statement of Facts Supporting Eligibility for Kinship Guardianship Assistance Payment (Kin-GAP) Program	SOC 369 KG 2
Notification of AFDC–Foster Care Transfer Visitation Attachment	FC 18 JV 400
Legal Guardianship Assessment—Acknowledgement and Advisement	F063-25-531
Children and Family Services Termination Request to Change Court Order	F063-25-117 JV 180

Hard Copy Forms

Forms listed below must be completed in hard copy (including multi-copy NCR forms). ***For reference purposes only***, links are provided to view these hard copy forms, where available.

Form Name	Form Number
Permanency Options Planning (POP) Meeting—Caregiver Information	F063-25-533
Permanency Options Planning (POP) Meeting—Caregiver Information (Spanish)	F063-25-533Sp
Financial Comparisons—Adoption, Legal Guardianship, and Long Term Foster Care	F063-25-562
Rights and Responsibilities—Adoption, Legal Guardianship, and Long Term Foster Care	F0912-25-294
Permanency Options Planning Meeting—Attendance Verification and Acknowledgement	F063-25-526

Permanency Options Planning Meeting— Attendance Verification and Acknowledgement (Spanish)	F063-25-526Sp
Permanency Options—Caregiver Advisement Acknowledgement	F063-25-532
Permanency Options—Caregiver Advisement Acknowledgement (Spanish)	F063-25-532Sp
Guardianship Acco	F063-25-1136

**CWS/CMS
Forms**

The following required forms may **only** be obtained in CWS/CMS. **For reference purposes only**, links are provided to view these CWS/CMS forms, where available.

Form Name	Form Number
Permanent Planning Assessment	F063-18-242
Placement Information Change (PIC) Notice	F063-28-301
Child Transfer Summary	F063-28-319R
Foster Child's Data Record	SOC 158A

Brochures

Brochures to distribute in conjunction with this procedure include:

Brochure Name	Brochure Number
Guardianship Pamphlet	JV 350

PROCEDURE

Required Actions— Legal Guardianship as Permanent Plan	The following actions must be taken in preparation for recommending Legal Guardianship (LG) as the Permanent Plan.	
Staff Responsible	Step	Required Action
Assigned Social Worker	1.	Inform prospective legal guardians of all potential rights and responsibilities. See CFS P&P Concurrent Planning (D-0202) for information about required documents that must be provided to prospective legal guardians, including providing information about Permanency Options Planning (POP) meetings. <u>Follow Steps 1–9 in the Procedure section of CFS P&P Concurrent Planning (D-0202) entitled “Required Actions—Permanency Planning Advisement for Caregivers.”</u>

Note: See Policy section, “Financial Assistance for Day-to-Day Care,” to determine eligibility for financial assistance should LG be established.

2. Obtain signatures of prospective legal guardians on *Legal Guardianship Assessment—Acknowledgement and Advisement (F063-25-531)*. Leave original with prospective legal guardians and file copy on the *Guardianship Acco (F063-25-1136)*.
3. Refer all adults in the home for live scan fingerprinting, unless the prospective legal guardian is a relative or NREFM caregiver and Live Scans (with Sub-Arrest notification) were completed at the time of initial placement. In such instances, contact the Relative Assessment Unit (RAU) for results of prior clearances.

See CFS P&P [Live Scan Fingerprinting \(B-0115\)](#) for information on obtaining live scan information.

Note: Refer any child age 14 years and older in the home for live scan fingerprinting if it is believed child has a record.

4. Review CWS/CMS for any Child Abuse Reports related to any adults living in household.

Note: Screen other states’ child abuse and neglect registries when prospective legal guardians or any other adult living in the home has lived in another state within the past five years. See CFS P&Ps [Foster Home Licensing \(K-0604\)](#) and [Clearances—Relative Assessments \(K-0101\)](#) for details on obtaining child abuse history from other states.

5. Obtain a DMV Clearance on all adults living in home, pursuant to CFS P&P [DMV Clearances \(B-0107\)](#).
6. Review results of any “Quality of Care” complaints obtained from, as applicable:

- CWS/CMS
 - Licensing file (for licensed foster parents)
 - Foster Youth Information (FYI) database maintained by Foster Care Investigations Unit in Emergency Response (for Foster Family Agency [FFA] homes)
7. Interview prospective legal guardians, dependent children, and all other members of the household and prepare the guardianship assessment for the WIC § 366.26 Report. See [Attachment 1—Assessment of Prospective Legal Guardian](#) for specific guidelines for writing the assessment. Refer to Policy section “Assessment of Prospective Legal Guardian” for further information.
 8. Make a determination regarding whether to have the case referred to the local child support agency. See Policy section entitled “Child Support Referrals.”

If the prospective legal guardian is a relative caregiver receiving AFDC-FC or CalWORKs funding assistance, refer to CFS P&P [Kin-GAP \(H-0113\)](#) for additional procedures to implement Kin-GAP assistance.

Required Actions— Letters of Guardianship	The following steps must be taken to complete <i>Letters of Guardianship (JV 330)</i> <u>and</u> an accompanying <i>Visitation Attachment (JV 400)</i> .	
Staff Responsible	Step	Required Action
Assigned Social Worker	1.	Notify assigned Deputy County Counsel of Legal Guardianship (LG) recommendation and request <i>Letters of Guardianship (JV 330)</i> be prepared. Note: County Counsel’s office will prepare two copies of <i>Letters of Guardianship (JV 330)</i> and forward, via pony mail, to the assigned social worker.
	2.	Upon receipt of <i>Letters of Guardianship (JV 330)</i> obtain signatures of prospective legal guardian(s) on two completed <i>Letters of Guardianship (JV 330)</i> .

3. **If termination of dependency will be recommended** at the time LG is established, complete *Visitation Attachment (JV 400)*.

Note: For ongoing dependency cases, visitation will be specified in the Case Plan. The *Visitation Attachment (JV 400)* will only be prepared/submitted at the hearing to terminate dependency.

4. Forward signed *Letters of Guardianship (JV 330)* and, as applicable, the *Visitation Attachment (JV 400)*, to court typist/Information Processing Technician (IPT) by the clerical deadline of the hearing at which LG will be established.

**Assigned Court
Typist/IPT**

5. Include *Letters of Guardianship (JV 330)* and, as applicable, the *Visitation Attachment (JV 400)*, in the child's Legal File.

Forward by pony mail to Court Officers Unit, a minimum of **two judicial days** prior to the scheduled hearing date at which LG will be established.

Note: The court report packet (excluding Legal File) will be forwarded to the Court Officers Unit **10 calendar days** (excluding judicial holidays) prior to the scheduled hearing date, for court filing purposes.

Court Officer

6. Upon receipt of Legal File:
 - a. Forward *Letters of Guardianship (JV 330)* and, as applicable, the *Visitation Attachment (JV 400)* to County Counsel.
 - b. If a *Visitation Attachment (JV 400)* has been completed, request County Counsel to prepare a Good Cause Order for "POST-DEPENDENCY PARENTAL VISITATION ORDERS," to which the *Visitation Attachment (JV 400)* will be attached.
7. At hearing to establish LG, present signed *Letters of Guardianship (JV 330)* and *Visitation Attachment (JV 400)* to assigned Deputy County Counsel, for review by all parties and submission to bench officer.

Required Actions— Continuing Dependency		The following actions must be taken when Legal Guardianship (LG) is established and dependency is continuing.	
Staff Responsible	Step	Required Action	
Assigned Social Worker	1.	Complete <i>Placement Information Change (PIC) Notice (F063-28-301)</i> and email to assigned Unit Clerk and Eligibility Technician to indicate new status of case.	
		See CFS P&P Placement Change Notification (K-0209) for additional information on completing the <i>PIC Notice (F063-28-301)</i> .	
Assigned Unit Clerk	2.	Complete data entry as indicated in CWS/CMS Data Entry Standards—Legal Guardianship .	
Assigned Social Worker	3.	Continue to provide all necessary case management required by the Court-ordered Case Plan and as outlined in CFS P&P Periodic Review Report (G-0311) .	
		Exception: Adoption social workers will transfer case to Continuing Court Programs by the end of the month in which the LG is established, following procedures in CFS P&P Case Transfers (D-0302) .	

Required Actions— Vacating Legal Guardianship		The following actions must be taken to vacate a Legal Guardianship (LG) when <i>dependency remains open</i> .	
Staff Responsible	Step	Required Action	
Assigned Social Worker	1.	When a party wishes to set aside a LG, schedule a Placement Preservation/Change of Placement Team Decision Making (TDM) meeting to determine whether or not the LG can be preserved with supportive services <i>prior</i> to determining whether to request a termination.	
		See CFS P&P Team Decision Making (D-0308) .	

Note: If a child abuse report is being investigated, the TDM meeting may be held after child has been removed from the placement if imminent risk to child is involved.

2. File *Request to Change Court Order (JV 180)* if it appears that setting LG aside is in the best interest of the child. If the legal guardian:
 - Concurs with the decision, request that the guardianship be set aside and a WIC § 366.26 hearing be calendared within 60 days
 - Opposes the decision, request that a hearing be calendared to address the issue of setting aside LG
3. Initiate a .26 level search if either parent's whereabouts are unknown, pursuant to the guidelines established in CFS P&P [Absent Parent Search \(G-0801\)](#).
4. Provide notice to all parties. See CFS P&P [Notices of Hearing \(G-0507\)](#) for .26 hearing notice requirements.
5. Inform legal guardians that they will need to file *Request to Change Court Order (JV 180)* if vacating the LG does not seem to be in the child's best interest.
6. Follow the orders of the Court if legal guardian files *Request to Change Court Order (JV 180)*.
7. Provided the LG is vacated, complete a *Placement Information Change (PIC) Notice (F063-28-301)* and email to assigned Unit Clerk and assigned Eligibility Technician.

Note: If a child receiving Kin-GAP (re)enters foster care and receives AFDC-FC assistance, the Eligibility Technician must notify the local child support agency that Kin-GAP benefits have been discontinued.

Required Actions—Non-Relative Legal Guardian Living in Orange County The following actions must be taken when Legal Guardianship (LG) is established, dependency is terminated, AFDC-FC (Foster Care) funds are continuing, and the legal guardian lives in Orange County.

<u>Staff Responsible</u>	<u>Step</u>	<u>Required Action</u>
Assigned Social Worker	1.	Complete <i>Placement Information Change (PIC) Notice (F063-28-301)</i> and email to assigned Unit Clerk and assigned Eligibility Technician to indicate new status of case. See CFS P&P Placement Change Notification (K-0209) for additional information on completing the <i>PIC Notice</i> .
	2.	Submit the following to assigned Eligibility Technician: <ul style="list-style-type: none"> • Hard copy of minute order establishing LG • Hard copy of signed <i>Letters of Guardianship (JV 350)</i>
Assigned Unit Clerk	3.	Create the <i>Foster Child's Data Record (SOC 158A)</i> in the child's notebook in CWS/CMS, print out form, and obtain assigned social worker's signature.
	4.	Send signed original <i>SOC 158A</i> to assigned Eligibility Technician.
	5.	File copy of signed <i>SOC 158A</i> on Placement Acco in the child's Service File.
Assigned Social Worker	6.	Update Court/Voluntary Status Indicator to reflect Voluntary in child's case in CWS/CMS.
	7.	Complete Voluntary Case Plan Update in child's notebook in CWS/CMS. See EZ Mapping for CMS Case Plan—Initial to create initial Voluntary Case Plan. See EZ Mapping for CMS Case Plan—Update to update a Voluntary Case Plan.
	8.	Complete <i>Child Transfer Summary (F063-28-319)</i> in child's notebook in CWS/CMS, print out and place on top of Legal and Services files for transfer.

Exceptions: Assigned social workers on Special Medical cases continue to provide case management and do not transfer the case to a specialized unit for supervision. Assigned social workers in Adoptions transfer these cases to Continuing Programs.

Assigned Social Worker, Supervisor, and Unit Clerk

9. Follow the procedure for transferring cases contained in CFS P&P [Case Transfers \(D-0302\)](#).

Note: Transfer the closed dependency case by the end of the month in which dependency is terminated.

Case Assignment Staff in Assigned Social Worker's Program

10. Assign the transferred case to the appropriate unit in the program providing case management for Orange County LG cases with dependency terminated and AFDC-FC funds continuing.

**Required Actions—
Legal Guardian
Out-of-County**

The following actions must be taken when a non-relative Legal Guardianship (LG) is established, dependency is terminated, AFDC-FC (Foster Care) funds are continuing, and the legal guardian lives in another California county.

Staff

Responsible

Step

Required Action

Assigned Social Worker

1. Complete *Placement Information Change (PIC) Notice (F063-28-301)* and email to assigned Unit Clerk and assigned Eligibility Technician to indicate new status of case.

See CFS P&P [Placement Change Notification \(K-0209\)](#) for additional information on completing the *PIC Notice*.

Assigned Unit Clerk

2. Create the *Foster Child's Data Record (SOC 158A)* in the child's notebook in CWS/CMS; print out form, and obtain assigned social worker's signature.

3. Send signed original *SOC 158A* and Minute Order indicating termination of dependency to assigned Eligibility Technician.

4. File copy of signed *SOC 158A* on Placement Acco in child's Service File.

Eligibility Technician

5. Complete Inter County Transfer (ICT) referral packet, including *Notification of AFDC–Foster Care Transfer (FC 18)* and forward to Eligibility in Receiving County.

See CFS Foster Care Program Development P&P Intercountry Transfers and County of Responsibility (45-201.13) for additional information on ICT packets.

Assigned Social Worker

6. Complete *Children and Family Services Termination (F063-25-117)* and follow procedure for closing cases outlined in CFS P&P [Case Closure \(E-0106\)](#).

**Required Actions—
Case Closure of
Legal
Guardianship Case**

The following actions must be taken when:

- Legal Guardianship (LG) is established, dependency is terminated, and AFDC-FC (Foster Care) funds are not continuing (i.e., transition to KinGAP funding)

–Or–

- Legal Guardian lives outside of California

**Staff
Responsible**

Step

Required Action

Assigned Social Worker

1. Complete *Placement Information Change (PIC) Notice (F063-28-301)* and email to assigned Unit Clerk and Eligibility Technician to indicate new status of case.

See CFS P&P [Placement Change Notification \(K-0209\)](#) for additional information on completing the *PIC Notice (F063-28-301)*.

Assigned Unit Clerk

2. Follow data entry procedures outlined in [CWS/CMS Data Entry Standards—Legal Guardianship](#).
3. Create the *Foster Child’s Data Record (SOC 158A)* in the child’s notebook in CWS/CMS; print out form, and obtain assigned social worker’s signature.

Assigned Social Worker

4. Complete *Children and Family Services Termination (F063-25-117)*, and follow procedure for closing cases outlined in CFS P&P [Case Closure \(E-0106\)](#).