



Understanding the Child Welfare System

January 2024

The child welfare system is complex, and children and youth involved with the system may transition through a range of legal statuses and physical placements while in the system. Below are some of the common terms used by the system.

Dependency: Dependency can be established by the **Juvenile Court** or a **Tribal Court** when there has been a finding of abuse or neglect in the home. If a child is adjudged a dependent child of the Court, the Court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child, including education and medical treatment.

California Welfare and Institutions Code (WIC) Section 300 et.seq., provides the legal basis for Juvenile Dependency Court jurisdiction and authorizes the court to remove children from the care and custody of their parents if such action is necessary to keep them safe. Youth under the jurisdiction of a Dependency Court are assigned a **Social Worker** (or case worker) whose job it is to identify a suitable placement and develop and oversee the case plan, which outlines the services to be provided to meet the needs of the family.

WIC Sections 601 and 602 provide similar authority to the **Juvenile Justice Court** (sometimes referred to as Juvenile Delinquency Court). If a youth is made a “ward” of the court and the court determines that a youth who is not subject to incarceration in a juvenile hall or camp cannot be safely returned to the home of parents, an order will be made for out-of-home placement.¹ Youth with an order for out-of-home placement from a Juvenile Justice Court are eligible for the same benefits as youth whose dependency is established by a Juvenile Dependency Court. Case supervision is typically provided by a **Probation Officer**.

In some cases, counties establish “**dual status**” for youth with active child welfare and probation cases by placing them under the jurisdiction of both the dependency and juvenile justice court systems. For youth who “**cross over**” from the care of a child welfare agency to the juvenile justice system, this dual status is intended to provide for better service coordination and communication.

Family Maintenance: Family Maintenance (FM) provides services to families in crisis to prevent or remedy abuse or neglect, allowing social workers to work with the family while keeping the child in the home. FM services may be based upon a voluntary agreement with the parents or may be ordered by the juvenile dependency court. When services are based upon a voluntary

¹ In California, the term “ward of the court” is often used to refer specifically to a youth under the jurisdiction of probation. Note that in many other states, and on the FAFSA, the term “ward” is used instead to refer to dependency status.

agreement, dependency is not established as the Juvenile Court is not involved. A family may enter FM status upon reunification of a child with the family following an out-of-home placement or at the onset of child welfare involvement in order to avoid removal of the child.

Foster Care: The term “foster care” describes a variety of placement settings in which a child or youth can be placed after removal from the home of a parent or guardian. Foster care placements can include placement with a family member, a close family friend (referred to as non-relative extended family members (**NREFM**)), or a foster family approved by the county child welfare agency or through an agreement with a **Foster Family Agency (FFA)**. These placement types are collectively known as **Resource Family Homes** and caregivers are referred to as **Resource Parents**. Youth may also be placed in a congregate care setting known as a **Short-Term Residential Therapeutic Program (STRTP)**. In 2017, California began eliminating the use of Group Homes in favor of STRTPs, which are intended to be a short-term placement option for children and youth needing an intensive level of care in a supervised setting.

Once a child is placed in foster care, families are typically offered services that support eventual **Family Reunification**. Regular hearings take place to evaluate the family’s progress. Reunification Services are terminated after specified time periods in foster care, at which point the child or youth is transitioned to **Permanent Placement** status, during which time a permanent home is sought through **Guardianship** or **Adoption**. In some cases, permanency through reunification, guardianship or adoption is not achieved and youth remain in foster care as they transition to adulthood. Youth who exit foster care after turning 18 are referred to as having **emancipated** or **aged out**.

Extended Foster Care (EFC): Youth who turn 18 while under a court order for foster care placement are eligible to remain in foster care until they turn 21. This is sometimes referred to as AB 12 in reference to the bill that created this option in California. Youth in EFC are known as **Non-Minor Dependents (NMD)**. NMDs have two placement options not available to minors. The **Supervised Independent Living Placement (SILP)** offers youth a monthly stipend to reside in a placement of their choosing such as an apartment, shared living situation or college dorm. The placement must be certified by the child welfare agency as meeting health and safety standards. The **Transitional Housing Placement Program for Non-Minor Dependents (THP-NMD)** contracts with non-profit housing providers who secure housing for participants in the community and provide a wide range of supportive services, including case management, job training, educational support, and counseling.

To qualify for EFC, youth must meet eligibility criteria, which can include attending school, working, or participating in a program meant to remove barriers to employment. Youth with a qualifying disability are exempt from participation requirements.

A youth who chooses to voluntarily exit foster care after turning 18 is eligible to re-enter the foster care system at any point up until they turn 21. Youth in guardianship or who have been adopted whose adoptive parents or guardian die prior to the youth turning 21 or whose guardian or adoptive parent is no longer providing financial support may also be eligible to re-

enter foster care after age 18 (see www.cdss.ca.gov/Portals/9/ACL/2019/19-31_ES.pdf?ver=2019-04-18-104859-023 for details).

Guardianship: A guardianship is a court-ordered relationship that gives an adult legal and physical custody of a child, with the right to make parental decisions about the child's care and control, residence, education and medical treatment. When the legal guardian is a family member, the guardianship is under the Kinship Guardianship Assistance Payment (**Kin-GAP**) program, and guardianships that involve non-family members are referred to as **Non-Related Legal Guardianships (NRLG)**. In most cases, once a child or youth enters a legal guardianship, their dependency case is closed, however, in some cases a dependency case may remain open even after the guardianship is in effect. Guardianships automatically end when the youth turns 18.

Caregivers who are appointed legal guardians can continue to receive financial support until the youth turns 18 (or 19 if enrolled in high school). If the youth entered KinGAP after the age of 16, or has a qualifying disability, caregiver support can continue until the youth turns 21 if the youth is meeting one of the EFC eligibility requirements and the former guardian is continuing to support the youth. NRLGs are eligible for continued funding until the youth turns 21 regardless of the youth's age when the guardianship was established.

Note that youth may also enter a guardianship established by a **Probate Court**. Probate courts hear cases related to personal and financial affairs of adults and children such as the appointment of guardians and the distribution and handling of estates of people who have died. Youth in guardianships established by a Probate Court are not considered dependents as these youth were not placed in the home by the Child Welfare agency. These youth are not eligible for Extended Foster Care benefits or other benefits available to foster youth.

Adoption: Children and youth may exit the child welfare system through adoption. Adoptive parents have all the same legal rights as biological parents. Adoptive parents can continue to receive financial support until the youth turns 18 (or 19 if enrolled in high school). If a youth was adopted after the age of 16, or has a qualifying disability, support for the adoptive parent can continue until the youth turns 21 if the adoptive parent is continuing to support the youth.

Transitional Housing Placement Plus (THP-Plus): THP-Plus is a program available to youth after they have exited the foster care system up to age 25 for a maximum of 36 months. The program provides semi-independent housing and a wide range of supportive services, including case management, job training, educational support, and counseling. Programs are operated by non-profit providers who have contracts with county child welfare agencies. JBAY maintains a roster of THP-Plus providers at jbay.org/resources/thp-plus-provider-roster/.

Independent Living Program (ILP): County Independent Living Programs, sometimes referred to as **Independent Living Services (ILS)** provide training, services, and benefits to assist current and former foster youth in achieving self-sufficiency prior to, and after leaving, the foster care system. Counties have considerable flexibility when designing these programs and so the

services and structure vary by location. Programs may be operated by a non-profit organization or directly by the county child welfare or probation agency. Qualified youth are eligible for ILP services from age 16 through 20. To qualify a youth must meet one of the following criteria:

- The youth was/is in foster care at any time from their 16th to their 19th birthday.
- The youth is a former dependent who received Kin-GAP payments between the ages of 16 and 18 (guardianship may begin at any age).
- The youth is a former dependent who entered into a Non-Related Legal Guardianship (NRLG) after attaining age 8.

The State maintains a list of programs at www.cdss.ca.gov/county-offices. John Burton Advocates for Youth also maintains a roster of contacts at jbay.org/resources/ilp-roster/.

Other Terminology:

- **Court Appointed Special Advocate (CASA):** CASA volunteers may be assigned by the court to work one-on-one with a foster youth, advocating for their best interest. California has 44 CASA programs serving 51 counties. Each program recruits and trains CASA volunteers in their community. A directory is available at www.californiacasa.org/local-programs.
- **Children’s Counsel or Minor’s Counsel:** An attorney appointed to represent a child, youth or NMD in Juvenile Dependency Court.
- **Education Rights Holder:** An individual appointed by the court who is authorized to make educational decisions in place of a parent. An education rights holder can also hold co-education rights with a parent in cases where a parent may need support when it comes to educational advocacy.
- **The Indian Child Welfare Act (ICWA)** sets federal requirements that apply to state custody proceedings involving Native American children who are members of or eligible for membership in a federally recognized tribe. When ICWA applies to the case of a Native American child, the child’s tribe and family can petition to transfer jurisdiction of the case to their own tribal court. The tribe can also participate as a party in the state court. The state court must follow ICWA guidelines for court procedure and placement when the federal law applies to a case. www.bia.gov/bia/ois/dhs/icwa.
- **Minute Order:** A minute order is a legal document with a written notice of a judge's ruling on any motion brought forward by a party in a legal proceeding, including dependency court hearings.
- **Office of the Foster Care Ombudsperson (OFCO):** The OFCO is an autonomous entity that is empowered to investigate and informally resolve complaints impacting foster youth, increase awareness about foster youth rights, and make recommendations to help support systemic change. The OFCO also is authorized to provide verification of foster care status to youth who have exited the system. fosteryouthhelp.ca.gov.
- **Special Immigrant Juvenile Status:** An option for undocumented minors currently in the United States to adjust status to that of Lawful Permanent Resident. The key criterion for

SIJS is abuse, neglect, or abandonment by one or both parents. A petition must be filed before the youth turns 21 and may take several years to be approved.

- **Unaccompanied Refugee Minors:** The Unaccompanied Refugee Minors (URM) program serves eligible youth who do not have parents in the United States, or who enter the U.S. unaccompanied by a parent, an immediate adult relative, or an adult having documentable legal evidence of custody of the minor. Refugee children who enter the U.S. with family, but later experience a family breakdown may also be eligible for the URM program. The California Department of Social Services contracts with community providers to oversee these cases. www.cdss.ca.gov/inforesources/refugees/subprograms-and-info/urm.
- **Voluntary Placement Agreement (VPA):** In some circumstances, parents can voluntarily give temporary care and custody of their child to a child welfare agency through a Voluntary Placement Agreement. Under a VPA, a child is placed in foster care for a maximum of 12 months without involvement from the dependency court.

NextUp Eligibility

To qualify for NextUp a student must be *“a current or former foster youth in California whose dependency was established or continued by a court of competent jurisdiction, including a tribal court, on or after the youth’s 13th birthday.”* This means that a student must have an order for out of home placement from the Juvenile Court.

Eligibility FAQs:

- 1. If a youth was a dependent but remained in the home of a parent in Family Maintenance status under court supervision after the age of 13, are they eligible for NextUp?**

Yes, effective December 2023 these students qualify for NextUp. Formal guidance from the CCCCO is expected to be issued in the coming months.

- 2. If a youth was living away from their parents, does that mean they qualify for NextUp?**

Not necessarily. Youth can live away from parents without a dependency case through informal relationships, probate guardianship arrangements or through voluntary placements. If court dependency was not established, the student is not eligible for NextUp.

- 3. Does a student who lived with family members such as a grandparent, aunt, uncle, sibling, etc. qualify for NextUp?**

It depends. If the student lived with family as a court ordered foster care placement after age 13, the student would qualify. If the placement with family was done through a Probate Guardianship, Kin-GAP prior to age 13, or through an informal arrangement the student would not qualify.

4. If a student exits foster care to a legal guardianship on or after the age of 13, are they eligible for NextUp?

If the student had an open dependency case at age 13, they are eligible for NextUp regardless of what happens after this. The youth can return to parents, enter a guardianship, or be adopted after age 13 and this does not impact their NextUp eligibility.

5. Are youth with experience in the juvenile justice system eligible for NextUp services?

A youth does not automatically meet the definition of foster youth by being involved with the juvenile justice system. To qualify for the benefits available to foster youth, the student must have had an order for out-of-home placement after the age of 13. If the youth resided only with parents or in a detention facility (juvenile hall or camp), the youth would not qualify for NextUp.

6. What is the difference between Kin-GAP Care and Relative Foster Care?

Under *Kin-GAP*, the court has granted guardianship of the youth to a relative. Kin-GAP families are no longer actively monitored by a social worker or the Juvenile Court. *Relative Foster Care* is a type of foster placement where a child is placed with a relative while the Juvenile Court continues to oversee the case and make orders regarding the child's care and custody. The family is required to meet with a social worker on a regular basis who monitors the child's case and provides updates to the Juvenile Court on the status of the child. If the status of relative foster care changes to Kin-GAP, the age of the child at the time when the case closes will inform whether the child is eligible for certain educational benefits (e.g., NextUp, Chafee Grant, Foster Youth CalGrant Access Award, etc.).

7. If a student qualifies for ILP does that mean they also qualify for NextUp?

Not necessarily. Youth in both Kin-GAP and non-related legal guardianships may qualify for ILP services even if the dependency case is closed prior to the age of 13. It is important to verify the age of the youth when the case was closed.

8. In a situation where a student exits care before 13 but then re-enters care again after the age of 13, are they eligible for NextUp?

A youth may enter foster care as a young child and have their case closed prior to age 13 due to reunification, adoption, or guardianship. If the youth's case is reopened through Dependency Court on or after their 13th birthday, the youth would be eligible for NextUp.

9. If the student's case was open for only a brief period after the age of 13 and the youth was later reunified with their parents, does the youth still meet the criteria for NextUp?

The length of time a student spends in foster care does not determine eligibility for NextUp services. If the student had an open case through Dependency Court on or after their 13th birthday for at least one day, they would meet the criteria for NextUp.

10. Is a student who was in foster care in another state eligible?

Yes. Students who have experienced foster care in another state or whose dependency status was determined in another state are eligible to participate. Students need to physically be in California to participate in the program.