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

**Effective Date:** July 26, 1990  
**Revised:** October 6, 2009

**Number:** G-0201

## **Custody (Exit) Orders and Custody Transfers to Non-Custodial Parents**

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**Purpose** To provide guidelines for requesting Juvenile Court to establish, modify, or transfer custody orders (including visitation and/or restraining orders) upon termination of dependency or placement with a non-custodial parent.

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**Approved** This policy was approved by Mike Ryan, Director of CFS, on October 6, 2009. *Signature on file.*

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**Background** This policy is a revision of Children and Family Services (CFS) Policy and Procedure (P&P) Custody Orders (G-0201) and incorporates pertinent information from and renders obsolete:

- CFS P&P Custody Transfers to Non Custodial Parents (G-0202)

Historically, Juvenile Court did not have authority to address legal custody of an adjudicated (dependent) child. When dependency proceedings were terminated, all orders related to custody of the child became void. In 1985, legislation was enacted authorizing Juvenile Court to issue orders affecting the legal custody of a dependent child, and providing for the continued validity of that order following termination of dependency proceedings.

Subsequent legislation further expanded the role of Juvenile Court. After a Petition has been filed and until that Petition is dismissed or dependency terminated, all issues regarding a child's custody are now heard solely and exclusively by Juvenile Court, which may establish, modify, or transfer custody orders. These custody orders may also consist of **visitation** and/or **restraining** orders, as

appropriate.

Although Juvenile Court may issue custody orders at any point throughout dependency proceedings, generally, Children and Family Services (CFS) staff request custody orders when:

- Requesting termination of dependency proceedings on behalf of a child (under age 18) and **Exit orders** are necessary to ensure protection of the child

**OR**

- Requesting placement of a child with a previously non-custodial parent and **Exit orders** transferring custody to that parent are sufficient to protect the child without continuing dependency

**Note:** While this P&P focuses on the process of requesting Exit orders, it may also serve as a guide if custody orders are appropriate while continued dependency action is necessary.

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**Legal Mandates** [WIC 213.5](#) and [Family Code 6218](#) detail the protective/restraining orders that may be issued by Juvenile Court.

[WIC 302\(d\)](#) provides that any custody/visitation order issued by Juvenile Court upon termination of dependency will be considered final judgment, and outlines conditions required for modification.

[WIC 304](#) and [California Rules of the Court Rule 5.620](#) provide that following the filing of a petition, and while a child remains under the jurisdiction of Juvenile Court, all custody related issues will be heard by Juvenile Court.

[WIC 361.2\(a\)](#) provides that following adjudication of a child removed from the physical custody of a parent/guardian, if a previously non-custodial parent desires to assume custody of the child, the Juvenile Court will place the child with that parent unless detrimental to the child's safety, protection, or well-being.

[WIC 361.2\(b\)](#) describes orders Juvenile Court may make following placement with a non-custodial parent.

[WIC 362.4](#) outlines conditions under which Juvenile Court may issue custody orders, and provides that such orders remain in effect unless modified or terminated by a subsequent court order (restraining orders remain time limited, pursuant to WIC 213.5).

[WIC 366.23](#) directs the social worker to inform a child's caregiver of his/her right to provide information to Juvenile Court regarding a non-custodial parent who seeks placement/custody of a child.

[WIC 16506](#) provides that Family Maintenance (FM) services may be provided to maintain a child in his/her home, when placed with a previously non-custodial parent under Juvenile Court supervision.

[WIC 16507](#) provides that Family Reunification (FR) services may be provided to reunite a child separated from his/her parent, when placed with a previously non-custodial parent under Juvenile Court supervision.

[Family Code 6323](#) provides that when visitation orders are issued by Juvenile Court, the Court may specify parameters for visitation.

[California Rule of Court 5.630](#) details the procedure for issuance of restraining orders by Juvenile Court.

[California Rules of the Court Rule 5.700](#) provides that custody, visitation, and protective orders may be made by Juvenile Court upon termination of dependency, and that these orders be provided to the Superior Court of the County where custody proceedings may have already commenced.

[California Rules of the Court 5.710\(h\)](#), [5.715\(c\)](#), and [5.720\(c\)](#) describe the actions Juvenile Court may take following placement with a non-custodial parent subsequent to disposition of a case.

*In re Zacharia D. (Cal. 1993)* concluded only mothers and presumed fathers are entitled to placement and custody of a child under WIC 361.2(a), and that the provision of this code applies only when a child is initially removed from a parent/guardian.

*In re Luke M. (Cal. 2003)* concluded evidence Juvenile Court may consider in determining whether placement with a non-custodial parent would be detrimental to a child is not limited to evidence of parental conduct or unfitness.

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## Definitions

**Exit Orders:** Custody orders which may include visitation and/or restraining orders, issued by Juvenile Court specifically upon termination of dependency proceedings.

**Legal Custody:** The authority to make significant decisions on a child's behalf, including decisions about education, religion, and healthcare.

**Physical Custody:** The authority to have physical care and control of the child.

**Non-Custodial Parent:** A parent with whom the child was not residing at the time the conditions arose which brought the child under Juvenile Court jurisdiction. This may include a parent who, as a result of dissolution of marriage/legal separation, does not have primary physical custody of a child.

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## POLICY

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### Exit Orders

The assigned Senior Social Worker (SSW) may request Juvenile Court issue Exit orders, including custody, visitation, and/or restraining orders, at an appearance hearing to terminate dependency proceedings, such as a:

- Jurisdictional/Dispositional hearing
- Statutory Review hearing (e.g., Status/Periodic Review)
- Termination Review hearing

An ex parte request may be submitted to calendar an appearance hearing to address termination of dependency proceedings and issuance of Exit orders, if necessary.

**Note:** Consult County Counsel prior to requesting custody orders at an appearance hearing that will not address termination of dependency proceedings.

When requesting termination of dependency proceedings (for a child under the age of 18), the assigned SSW will:

- Identify other Court proceedings that commenced prior to Juvenile Court Intervention (e.g., Family Law, Probate, Criminal), and whether any custody/visitation/restraining orders were issued as a result of those proceedings
- Assess the appropriateness of Exit orders to protect the child, including the need for:
  - Establishment, modification, or transfer of custody orders

- Visitation orders
- Restraining orders

**Note:** If issuance of Exit orders will not be sufficient to protect the child following termination of dependency proceedings, consult a Senior Social Services Supervisor (SSSS) to determine whether termination of dependency is appropriate.

A. **Requesting Custody Orders**

When custody orders are requested, the assigned SSW, in consultation with the assigned Senior Social Services Supervisor (SSSS), will:

1. Prepare the *Custody Order—Juvenile—Final Judgment (JV-200)* for submission to Juvenile Court at the scheduled hearing to terminate dependency proceedings.

**Note:** This form will also be submitted to Juvenile Court if requesting custody orders while continued dependency action is necessary.

2. Attach any proposed visitation and/or restraining orders, as specified below.

B. **Requesting Visitation Orders**

When recommending termination of dependency proceedings, the assigned SSW will consider the appropriateness of visitation orders for either parent.

**Note:** Consider whether, based upon case circumstances, the best interests of the child warrant the need for a third party to monitor visitation, or whether visitation should be denied.

If visitation orders are appropriate, the assigned SSW will prepare the *Visitation Order—Juvenile (JV-205)* and attach the form to the *Custody Order—Juvenile—Final Judgment (JV-200)*.

C. **Requesting Restraining Orders**

When recommending termination of dependency proceedings:

1. If restraining order **already exists**, attach a copy of the previously issued *Restraining Order—Juvenile (JV-250)* to the *Custody Order—Juvenile—Final Judgment (JV-200)*

2. If **no restraining order currently exists** but circumstances indicate a restraining order may be needed, **immediately** consult assigned SSSS and County Counsel regarding the appropriateness of requesting restraining orders at termination. If consultation warrants such a request:
  - a. Complete and sign the *Application and Affidavit for Restraining Order—Juvenile (JV-245)*.
  - b. Attach the following forms to the *Custody Order—Juvenile—Final Judgment (JV-200)*:
    - A completed/signed *Application and Affidavit for Restraining Order—Juvenile (JV-245)*
    - A blank *Restraining Order—Juvenile (JV-250)*

**Note:** If circumstances warrant issuance of restraining orders at any point throughout dependency proceedings, restraining orders should be sought **immediately**. Do not wait until termination of dependency proceedings.

For further information regarding issuance of restraining orders throughout dependency proceedings, timeframes, and follow-up requirements, refer to CFS P&P [Restraining Orders \(G-0205\)](#).

### Notice of Hearing Requirements

Exit orders will only be recommended at an appearance hearing for which Notice is provided. The Notice of Hearing will indicate:

- If a change in the custody or status of a child is recommended
- The nature of Exit orders requested, specifying that custody, visitation and/or restraining orders are being sought
- A copy of the *Application and Affidavit for Restraining Order—Juvenile (JV-245)* (to be included in the Notice provided to the party against whom restraining orders are sought)

Refer to CFS P&P [Notices of Hearing \(G-0507\)](#) for information regarding parties entitled to receive Notice, timeframes, and specific content of the Notice.

**Note:** These Notice requirements also apply whenever custody orders are sought while continued dependency action is necessary.

**Timeframes for Exit Orders**

Exit orders issued by Juvenile Court will be filed by the Clerk's Office, in the appropriate County Superior Court.

Custody/visitation orders issued by Juvenile Court remain in effect indefinitely. Modification or termination of these orders will only be made upon review of the Juvenile Court file and findings that:

- There has been a significant change in circumstances
- AND**
- Modification to the Juvenile Court order is in the child's best interests

Restraining orders issued by Juvenile Court may remain in effect up to three years, unless otherwise specified or extended. For further information, refer to CFS P&P [Restraining Orders \(G-0205\)](#).

**Custody Transfers to a Non-Custodial Parent**

A. **Locating Non-Custodial Parents**

1. **Pre-Disposition:**

When a child is removed from the physical custody of a parent/guardian, the Investigations SSW will make efforts to identify and locate any previously non-custodial parent and inquire as to their interest in seeking placement and custody of the child.

If the whereabouts of the non-custodial parent is unknown, a search referral will be submitted, as necessary, pursuant to CFS P&P [Absent Parent Search \(G-0801\)](#).

**Note:** All efforts to locate a non-custodial parent will be documented in search declarations submitted to Juvenile Court at the Jurisdictional/Dispositional hearing.

2. **Post-Disposition:**

A non-custodial parent whose whereabouts are ascertained subsequent to disposition of the case, while the child remains in out-of-home care, may be considered for placement and custody of the child:

- When deemed appropriate by the assigned SSW
- OR**
- Upon order of the Juvenile Court

**Note:** Consideration of non-custodial parents for placement and custody of a child is only mandatory upon **initial** removal (Pre-Disposition).

When appropriate, submit an ex parte informing Juvenile Court that a non-custodial parent's whereabouts have been ascertained and request:

- Parentage findings regarding the non-custodial parent
- Appointment of an attorney on behalf of the non-custodial parent, if no attorney has been appointed or retained

**B. Evaluating Non-Custodial Parents for Placement/Custody**

If a non-custodial parent requests placement and custody of a child, the Investigations SSW (or continuing worker, when appropriate) will:

1. Verify parentage. Only mothers/presumed fathers will be considered for **placement and custody**. See CFS P&P [Parentage \(G-0602\)](#) for information regarding legal findings and implications of parentage.
2. Evaluate the suitability of placement with the non-custodial parent, pursuant to the guidelines in [Attachment 1—Placement with a Non-Custodial Parent](#).
3. Advise the child of his/her right to make a statement to the Court regarding placement preference. See CFS P&P [Child's Rights at Court \(G-0303\)](#) for further information.
4. Request the current out-of-home caregiver provide any relevant information pertaining to the non-custodial parent on the *Caregiver Information Form (JV-290)*, included in the Notice of Hearing provided to the caregiver.

**Note:** If Notice is not provided to the caregiver (e.g., Jurisdictional/Dispositional hearing), the assigned SSW will provide a *Caregiver Information Form (JV-290)* and *Instruction Sheet for Caregiver Information Form (JV-290-INFO)*.

If the *Caregiver Information Form (JV-290)* is completed, the assigned SSW will direct the caregiver to file the form with Juvenile Court, per the instructions provided on the form, prior to the scheduled hearing to address evaluation of the non-custodial parent.

5. Schedule a Team Decision Making (TDM) meeting, if appropriate, pursuant to the guidelines outlined in CFS P&P [Team Decision Making \(D-0308\)](#).

C. **Placement with a Non-Custodial Parent**

Placement with a previously non-custodial parent will be facilitated unless the Juvenile Court is provided sufficient information to find that such placement would be detrimental to the safety and protection of the child.

**Note:** Detriment is not limited to parental conduct/unfitness. Any factor causing the child physical or emotional harm (e.g., disruption of sibling relationships) may be considered.

When facilitating placement with a non-custodial parent, the assigned SSW will complete the following, as applicable:

1. Pre-Disposition:  
Do not place with a non-custodial parent **prior** to the Juvenile Court's review and consideration of the non-custodial parent.
  - a. Document suitability of placement and custody with the non-custodial parent in the JD Report, pursuant to CFS P&P [Jurisdictional/Dispositional Hearing Report \(G-0310\)](#).
  - b. Consider placement under the Conditional Release to Intensive Supervision Program (CRISP), pending disposition. See CFS P&P [Conditional Release to Intensive Supervision Program \(M-0103\)](#).
  - c. At the hearing to address disposition, recommend that the non-custodial parent **assume physical custody subject to supervision** of Juvenile Court and:

- FM services to the parent assuming physical custody
- Enhancement services to parent from whom child was initially removed, if appropriate

**Note:** Per WIC 361.2(b), FR services may be considered for the parent from whom the child was removed, if in the best interests of the child and no statutory exception to provision of FR services applies (WIC 361.5[b]). See CFS P&P [Jurisdictional/ Dispositional Hearing Report \(G-0310\)](#).

If termination of dependency proceedings is appropriate upon placement with the non-custodial parent, refer to the policy subsection entitled Custody Transfers at Termination of Dependency.

2. Post-Disposition:

- a. Initiate a 60-day trial visit pursuant to the guidelines detailed in CFS P&P [Out-of-Home Placement \(K-0208\)](#).

This may require submission of a *Request to Change Court Order (JV-180)* if a case plan on behalf of the non-custodial parent was not previously ordered at disposition or a subsequent Statutory Review hearing.

**Note:** In some circumstances, Juvenile Court may order placement with a non-custodial parent without initiating a 60-day trial visit.

- b. Document suitability of placement and custody with the non-custodial parent in the court report prepared for the next scheduled Statutory Review hearing or to review the 60-day trial visit (whichever comes first).
- c. If appropriate at the conclusion of a successful 60-day trial visit, recommend that the non-custodial parent **assume physical custody subject to supervision** of Juvenile Court and:

- FM services to the parent assuming physical custody
- Enhancement services to parent from whom child was initially removed, if that parent was receiving FR services at the time the child was placed with the previously non-custodial parent

D. **Custody Transfers at Termination of Dependency**

The assigned SSW (Investigations/continuing worker) may recommend that **physical custody be transferred** to the non-custodial parent **and dependency terminated** upon placement with a non-custodial parent when:

- Placement with the non-custodial parent is in the best interests of the child
- Custody orders would, on their own merit, be sufficient to protect the child without continuing dependency

**AND**

- The plan is **not** to reunify the child with the parent/guardian from whom the child was initially removed

**Note:** In most instances, if placement with a non-custodial parent is made post-disposition, provision of FM services should be requested prior to recommending termination of dependency proceedings.

Refer to the Policy section entitled “Exit Orders” for further information regarding transfer of custody at termination.

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## 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—Placement with a Non-Custodial Parent](#)

## Hyperlinks

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

- CFS P&P [Absent Parent Search \(G-0801\)](#)
  - CFS P&P [Conditional Release to Intensive Supervision Program \(M-0103\)](#)
  - CFS P&P [Child's Rights at Court \(G-0303\)](#)
  - CFS P&P [Jurisdictional/Dispositional Hearing Report \(G-0310\)](#)
  - CFS P&P [Notices of Hearing \(G-0507\)](#)
  - CFS P&P [Out-of-Home Placement \(K-0208\)](#)
  - CFS P&P [Parentage \(G-0602\)](#)
  - CFS P&P [Restraining Orders \(G-0205\)](#)
  - CFS P&P [Team Decision Making \(D-0308\)](#)
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## Other Sources

Other printed references include the following:

- Court Typing Work Process Guidelines
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## REQUIRED FORMS

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### 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
<a href="#">Caregiver Information Form</a>	JV-290
<a href="#">Instruction Sheet for Caregiver Information Form</a>	JV-290-INFO
<a href="#">Request to Change Court Order</a>	JV-180

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### 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
None.	

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**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
<a href="#">Custody Order—Juvenile—Final Judgment</a>	JV-200
<a href="#">Visitation Order—Juvenile</a>	JV-205
<a href="#">Application and Affidavit for Restraining Order—Juvenile</a>	JV-245
<a href="#">Restraining Order—Juvenile</a>	JV-250

**Brochures**

Brochures to distribute in conjunction with this procedure include:

Brochure Name	Brochure Number
None.	

**PROCEDURE**

**Required Actions—Requesting Exit Orders** The following procedure will be followed **when requesting Juvenile Court issue Exit orders**, including custody, visitation, and/or restraining orders, at a hearing to terminate dependency.

**Note:** This procedure may also serve as a guideline when requesting custody orders at an appearance hearing that will not address termination of dependency proceedings.

Staff Responsible	Step	Required Action
Assigned SSW	1.	<p>Review legal file and inquire from each parent (as available), as to existing custody/visitation/restraining orders issued in other Court proceedings.</p> <p>If applicable, identify the following information:</p> <ol style="list-style-type: none"> <li>a. County Superior Court where custody proceedings have already commenced or are pending.</li> <li>b. Case/File number.</li> <li>c. Specific information regarding the court order.</li> </ol>

**Note:** Include the above referenced information in the court report prepared for the hearing to terminate dependency proceedings.

2. Determine what Exit orders, if any, are necessary to ensure protection of the child following termination of dependency proceedings, including:

- Custody orders
- Visitation orders
- Restraining orders

**Note:** The court report prepared for the hearing to terminate dependency proceedings must document facts/incidents which demonstrate sufficient grounds for issuance of the requested exit orders.

3. Consult SSSS and County Counsel (as necessary).

**Note:** Always consult County Counsel prior to recommending issuance of a restraining order.

4. Prepare the *Custody Order—Juvenile—Final Judgment (JV-200)*, in pencil. Use one form unless the parents of each child listed on the proposed custody order differ.

**Note:** Proposed Exit orders may be modified during Court proceedings as a result of negotiation among the attorneys of record.

At a minimum, indicate the following, as applicable:

- Proposed parties to receive legal and physical custody of the child (sections 2 and 3)
- Proposed visitation rights for the parent from whom the child was removed (sections 4 and 5)
- Paternity findings (section 8)
- Whether the order reflects a transfer of custody to a previously non-custodial parent (section 10)
- If known, any criminal protective orders previously issued (section 11)
- Name and address of relevant parties, including the attorneys of record (section 14)

**Note:** If a parent's address is confidential, indicate as such and do not include the address on the form.

**5. Complete this step if visitation orders requested upon termination of dependency proceedings.**

Prepare the *Visitation Order—Juvenile (JV-205)*, in pencil. Use one form unless the parents of each child listed on the visitation order differ. Specify parameters for visitation, including:

- Visitation frequency (section 1)
- The need for supervised visitation (section 2)
- Manner of transfer/exchange of the child (section 3)

Attach the prepared *Visitation Order—Juvenile (JV-205)* form to the *Custody Order—Juvenile—Final Judgment (JV-200)*.

**Note:** The *Visitation Order—Juvenile (JV-205)* may be generated attached to the *Custody Order—Juvenile—Final Judgment (JV-200)* in CWS/CMS, when needed.

**6. Complete this step if a restraining order already exists upon termination of dependency proceedings.**

Attach a copy of the previously issued *Restraining Order—Juvenile (JV-250)* to the *Custody Order—Juvenile—Final Judgment (JV-200)*.

**7. Complete this step if restraining orders requested upon termination of dependency proceedings.**

- a. Complete and sign the *Application and Affidavit for Restraining Order—Juvenile (JV-245)*.
- b. Print a blank copy of the *Restraining Order—Juvenile (JV-250)*. This form will be completed at the time of the hearing.
- c. Attach both forms to the *Custody Order—Juvenile—Final Judgment (JV-200)*.

8. Complete the appropriate *Notice of Hearing Worksheet* pursuant to the guidelines in CFS P&P [Notices of Hearing \(G-0507\)](#). Indicate:
  - If a change in the custody or status of a child is recommended
  - Whether Exit orders (e.g., custody, visitation, restraining orders) are recommended
  
9. Submit the following to the Court Typist/Information Processing Technician (IPT) within the established timeframes:
  - a. The court report recommending termination of dependency with Exit orders.
  - b. The appropriate *Notice of Hearing Worksheet*.
  - c. The prepared *Custody Order – Juvenile - Final Judgment (JV-200)*, and any other proposed Exit orders attached, which may include:
    - *Visitation Order—Juvenile (JV-205)*
    - *Application and Affidavit for Restraining Order—Juvenile (JV-245)*
    - A blank *Restraining Order—Juvenile (JV-250)*
  - d. The legal file associated with the case.

**IPT**

10. Prepare and distribute Notice of Hearing as described in the Policy section entitled Notice of Hearing Requirements. See CFS P&P [Notices of Hearing \(G-0507\)](#) for further information.
11. Forward any prepared Exit orders, along with court report, for review/approval by SSSS and assigned SSW.

**SSSS and  
Assigned SSW**

12. Review and modify (as necessary) court report and proposed Exit orders. Sign court report and return to IPT.

- IPT**
- 13.** Prepare court report packet (including proposed Exit orders) for distribution pursuant to *Court Typing Work Process Guidelines*. Forward to Court courier for delivery to Court Officers Unit.
- Court Officer Staff**
- 14.** On the day of the scheduled hearing to terminate dependency proceedings:
- a. Distribute penciled copy of proposed Exit orders to all attorneys of record for review/modification (as necessary).
  - b. Following agreement/negotiation by all attorneys of record, forward Exit orders to County Counsel's Office for preparation of typed/finalized Exit orders.  
  
**Note:** If agreement not reached, Exit orders will be determined by Bench Officer upon mediation among the parents and/or a trial hearing.
  - c. Attach Exit orders to stipulation and submit to Bench Officer at the hearing to terminate dependency proceedings.