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

Effective Date: October 30, 2008

Number: K-0404

**Legal Guardianship—Non-Dependents
(AFDC Foster Care Funded)**

Purpose

To provide guidelines for services to non-related legal guardians caring for:

- Previous dependents of the Orange County Juvenile Court when foster care (AFDC-FC) funds are continuing
- Previous dependents of a Juvenile Court in another county or state requesting (AFDC-FC) funds in Orange County
- Children who have never been dependents of a Juvenile Court

Note: Legal guardians who are relatives receiving Kin-GAP funding are provided with financial services by eligibility staff; however, CFS social workers have no responsibilities for these cases, which will not be discussed in this policy. For additional information on requirements and available benefits for Kin-GAP funded legal guardianship cases, refer to Children and Family Services (CFS) Policy and Procedure (P&P) Kin-GAP (H-0113).

Approved

This policy was approved by Mike Ryan, Director of CFS, on October 30, 2008. *Signature on file.*

Background

This policy is a revision of CFS P&P Guardianship (Post-1988) (K-0402) which has been divided into two policies. For information on establishing legal guardianships involving current dependents of the Juvenile Court, refer to CFS P&P [Legal Guardianship—Dependents \(K-0402\)](#).

Legal Mandates [Welfare and Institutions Code Section 360, 360\(a\), 366.25, 366.26, and 366.3](#)
[Welfare and Institutions Code Section 11405](#)
[Rule of Court 5.740\(c\)](#)

Definitions

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

Financial services only: Cases of non-dependent children whose legal guardians are receiving AFDC foster care funding remain open for “financial services only.” Services are intended to be limited, as the guardian has now assumed responsibility for the child; however, the services required are more than financial.

Walk-In: A non-dependent legal guardianship case where the agency’s initial contact with the legal guardian occurs when the guardian applies for financial assistance in Orange County.

POLICY

Ongoing SSA Involvement Non-relative legal guardians receiving AFDC foster care funds receive a variety of services from the assigned CFS social worker in addition to financial services from the assigned eligibility social worker. These cases must be assigned to a Social Worker I (SWI) or Social Worker II (SWII) for case management within 30 calendar days unless Program Manager (PM) approval is received to allow the case to remain with a Senior Social Worker (SSW).

CWS/CMS The case will remain open in Child Welfare Services/Case Management System (CWS/CMS) after the termination of dependency for former dependents living in Orange County and receiving foster care funds.

See [CWS/CMS Data Entry Standards—Legal Guardianship](#) for detailed information on required data entry.

A new case will be opened in CWS/CMS for children who:

- Have been prior dependents in another juvenile court and subsequently relocate to Orange County
- Have never been dependents of a juvenile court

See [CWS/CMS Data Entry Standards—Non-Dependent Legal Guardianship Walk-In Requests](#) for information on opening the case.

Case Plan

A “Voluntary” Case Plan will be created in CWS/CMS to serve as a documented assessment of a child’s needs:

- Prior to transferring the case upon termination of dependency *when foster care funding is continuing*
- Within 30 calendar days of termination of dependency if keeping the case
- Within 30 calendar days of receiving assignment of a new legal guardianship case for “financial services only”

A Case Plan Update will be created in CWS/CMS no less than once every six months thereafter until the “financial services” case is closed.

See CFS P&P [Case Plan Development/Elements \(D-0101\)](#) for additional information on case plans, and the Procedure section of this policy for information on creating and updating case plans in CWS/CMS.

Contact Requirements and Documentation

Face-to-face contact must be made with the child and the guardian at least once every six months. Ideally, all contacts will occur in the home of the legal guardian and a minimum of one contact each year must occur in the home. Each contact must be documented in CWS/CMS.

See [Attachment I—Contact Narrative Guidelines—Legal Guardianship Non-Dependents](#) for discussion guidelines and CFS P&P [Case Compliance Contacts and Documentation \(E-0105\)](#) for data entry timelines.

Financial Assistance for Day-to-Day Care

AFDC foster care payments are determined by state regulation and processed through CFS to assist with a child’s day-to-day care. The assigned social worker will complete all required activities necessary to ensure appropriate and continued payments. See the Procedure section of this policy for specific responsibilities related to foster care payments.

For a more complete discussion of foster care payments and other financial considerations, see *Financial Comparisons—Adoption, Legal Guardianship, and Long Term Foster Care (F063-25-562)*.

Note: Guardianship funding is not legally recognized or funded and may be different outside of Orange County. Therefore, legal guardians should be encouraged to research this issue before relocating.

Annual Financial Reassessment	The assigned social worker must visit the home and submit information to the eligibility technician as a prerequisite for funding for the next year. Verification of this visit will be provided on <i>Non-Dependent Legal Guardian Home Visit Verification (F063-25-563)</i> .
Specialized Care Increments (SCIs)	A child with special needs may require funding in addition to the basic foster care rate. Specialized Care Increments may be requested for children requiring additional care because of <u>current, documented</u> medical and/or behavioral care needs. Eligibility for a Specialized Care Increment is based on the individual needs of a child <u>and</u> what the guardian does to meet those needs. For additional information on applying for Specialized Care Increments, see the section by that name in CFS P&P Foster Care Rates (H-0112) and the Procedure section of this policy.
Clothing Allowances	Non-relative legal guardians receiving foster care funds are eligible to receive clothing allowances. For information on applying for clothing allowances, see the section titled "Supplemental Rates" in CFS P&P Foster Care Rates (H-0112) .
Placement Information Change (PIC) Notices	When a child is no longer living in the home of the legal guardian, the assigned social worker must call the placement hotline at (714) 704-8407 <u>or</u> complete and email a <i>Placement Coordination Stop Payment Memo (F063-29-61)</i> immediately and complete the <i>PIC Notice (F063-28-301)</i> . Refer to CFS P&P Placement Change Notification (K-0209) for further direction on this process.
Available Services	<p>The following CFS services are available to children in legal guardian non-dependent cases when a child is receiving foster care funding:</p> <ul style="list-style-type: none">• Some Independent Living Skills Programs (ILSPs) are available to youths until age 21 when dependency was terminated after the youth's 16th birthday. See the Procedure section of this policy for social worker actions required for these youth• Team Decision Making (TDM) Meetings may be held when a guardianship is failing. See CFS P&P Team Decision Making (D-0308) for additional information on these meetings• Wraparound services may be available, under special circumstances, to assist in maintaining a failing legal

guardianship. See CFS P&P [Wraparound Referral and Services \(D-0511\)](#)

In addition, assigned social workers will make referrals to all appropriate community-based services, including an annual discussion about a referral to CHDP using:

- *A Child Health and Disability Prevention Referral (PM 357)*
- *CHDP Medical and Dental Health Check-Ups (Pub 183)*

**Guardian’s
Legal Rights
and
Responsibilities**

The assigned social worker may need to respond to questions from the guardian concerning the guardian’s rights and responsibilities. A discussion of the relevant sections of *Rights and Responsibilities—Adoption, Legal Guardianship, and Long Term Foster Care (F0912-25-294)* can be used in explaining these issues to the guardian.

**Child Support
Payments**

The assigned social worker will determine whether the collection of child support payments from a child’s parent(s) is in the child’s best interest. See the Procedure section of this policy for specific timelines, and CFS P&P [Child Support Referrals \(H-0121\)](#) for additional information on this issue.

**Intercountry
Transfers**

When a legal guardian moves out of Orange County, the social worker will complete an Inter County Transfer (ICT) referral and keep the case open in Orange County for 60 days to allow for a transition to social and eligibility workers in the new county of residence.

See CFS P&P [Legal Guardianship—Dependents \(K-0402\)](#) (Procedure section titled “Required Actions—Out-of-County”) for information on the transfer process.

**Change of
Residence**

Whenever a child is no longer living at the address currently listed in CWS/CMS as that of the legal guardian, all of the requirements in CFS P&P [Placement Change Notification \(K-0209\)](#) must be followed as soon as the change becomes known. This applies, but is not limited to, situations where the legal guardian moves to a new residence with the child or the child is a run away, hospitalized, incarcerated or in Juvenile Hall, living with someone other than the guardian, or in residential treatment.

**Termination of
Guardianship**

Guardianships automatically terminate when a child legally becomes an adult. However, funding may continue after a child turns 18 years of age if there is verification that the child will graduate from high school by the age of 19 and the child remains

in the home of the legal guardian. The *School Attendance Verification (F063-30-393)* form is used for this purpose.

Failing Guardianships

When a guardianship is failing and/or a guardian wishes to end the guardianship and Orange County CFS is not providing AFDC-FC funding, the social worker taking the call will advise the legal guardian to file a JV 180 through an attorney to request termination of the guardianship. If, during the course of the conversation, child abuse is suspected, a Child Abuse Report (CAR) must be made.

When a guardianship is failing and/or a guardian wishes to end the guardianship and Orange County CFS is providing AFDC-FC funding, the assigned social worker must attempt to schedule a TDM meeting to either preserve the guardianship or plan a transition for a child. In these circumstances, refer to the CFS P&P [Legal Guardianship—Dependents \(K-0402\)](#) (Procedure section titled “Termination of Guardianship”).

Closing Case

Case management of Legal Guardianship Non-Dependent cases ends whenever AFDC-FC funds are no longer being paid to the guardian. Cases must be closed within 30 days, following the procedures outlined below in this policy (“Required Actions—Case Termination”). Any exceptions to this policy must be approved by the PM.

Reinstating Dependency

It may be necessary to initiate or to reinstate dependency in a legal guardianship non-dependent case (i.e., a CAR is substantiated, guardian becomes terminally ill, guardian wishes to adopt and dependency is required to insure proper funding, etc.). The assigned social worker will consult with a supervisor to determine whether the case will be transferred to a SSW to resolve the issues. If the case is not transferred immediately, it must be transferred to a SSW once dependency is reinstated.

See the section of this policy titled “Reinstating Dependency” and the corresponding Procedure section in CFS P&P [Legal Guardianship—Dependents \(K-0402\)](#) for further information.

REFERENCES

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 [Independent Living Program Services—Initial](#)

- [Referral \(D-0504\)](#)
- CFS P&P [Child Support Referrals \(H-0121\)](#)
- CFS P&P [Foster Care Rates \(H-0112\)](#)
- CFS P&P [Permanency Hearing Report \(G-0312\)](#)
- CFS P&P [Case Compliance Contacts and Documentation \(E-0105\)](#)
- CFS P&P [Case Transfers \(D-0302\)](#)
- [CWS/CMS Data Entry Standards—Legal Guardianship](#)
- [CWS/CMS Data Entry Standards—Non-Dependent Legal Guardianship Walk-In Requests](#)
- [CWS/CMS Data Entry Standards—CW 51– Child Support– Good Cause Claim for Noncooperation](#)
- [CWS/CMS Data Entry Standards—Transitional Planning Services Instructions](#)
- [CWS/CMS EZ Mapping for CMS Case Plan—Initial](#)
- [CWS/CMS EZ Mapping for CMS Case Plan—Update](#)
- [Attachment I—Contact Narrative Guidelines—Legal Guardianship Non-Dependents](#)

Other Sources Other printed references include the following:

- Foster Care Program Development P&P Legal Guardianship (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
Clothing Allowance Authorization	F063-28-320
Specialized Foster Care Request	F063-28-164
Non-Dependent Legal Guardian Home Visit Verification	F063-25-563
Placement Coordination Stop Payment Memo	F063-29-61
Request to Change Court Order	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
Child Health and Disability Prevention Referral	PM 357

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
Case Plan	Via CWS/CMS
Child Support-Good Cause Claim for Noncooperation	CW 51
Statement of Facts Supporting Eligibility for AFDC-Foster Care (FC)	FC 2
Statement of Facts Supporting Eligibility for AFDC-Foster Care (FC) (Spanish)	FC 2(SP)
Foster Child Data Record and AFDC-FC Certification	SOC 158A

Brochures

Brochures to distribute in conjunction with this procedure include:

Brochure Name	Brochure Number
Child Health and Disability Prevention (CHDP) Program—Medical & Dental Health Check-Ups	Pub 183

PROCEDURE

Required Actions—Case Management

The following actions are required to provide case management services to Legal Guardianship—Non-Dependent cases.

Staff Responsible	Step	Required Action
Index IPT	1.	Follow procedures in CWS/CMS Data Entry Standards Non-Dependent Legal Guardianship Walk-in Requests upon receipt of Guardianship application packet for

non-dependent legal guardianship “walk-in” case from Foster Care Eligibility

**Program Case
Assignment
Staff**

2. Assign legal guardianship cases transferred to program “Assignment Desk” to appropriate supervisor for assignment of a primary social worker.

**Social Services
Supervisor
(SSS)**

3. Upon receiving the case in the unit, verify that case is entered in CWS/CMS and that the Case Status is identified as “Voluntary” on Case section of ID tab in Client Services.
4. Review case file to verify that properly executed *Letters of Guardianship (JV 330)* are present. If *Letters of Guardianship* are missing, provide instructions to social worker receiving the case to obtain them as soon as possible.
5. Review case file to verify that the Minute Order terminating dependency is present in all files where the child was previously a dependent of a Juvenile Court. If Minute Order is missing, provide instructions to social worker receiving the case to obtain the Minute Order as soon as possible.
6. Assign case in CWS/CMS, entering primary social worker’s name in Caseload section on Assignment tab in Client Services.

**Assigned Social
Worker**

7. Schedule an initial face-to-face contact in the guardian’s home:
 - As soon as possible on all cases where dependency has not just been terminated by the Orange County Juvenile Court
 - Within six months of previous social worker’s last home visit when dependency has just been terminated by the Orange County Juvenile Court
8. Create a Voluntary Case Plan in CWS/CMS, if one has not already been created, obtaining supervisor approval in CWS/CMS. Print out and have supervisor sign hard copy.

See [CWS/CMS EZ Mapping for CMS Case Plan—Initial](#) for information on creating initial Voluntary Case Plan.

9. Interview child and legal guardian during initial visit using [Attachment 1—Contact Narrative Guidelines—Legal Guardian Non-Dependent](#) as a discussion guideline. Obtain signatures of Legal Guardian and child, if age appropriate, on Case Plan unless already signed. Leave copy with guardian and file copy in child's Service File on right side.
10. Create a case plan update in CWS/CMS a minimum of once in every six-month period prior to the semi-annual home visit. Obtain supervisor approval in CWS/CMS. Print out and have supervisor sign hard copy.

See [CWS/CMS EZ Mapping for CMS Case Plan—Update](#) for information on updating the case plan.

11. Make subsequent home visits a minimum of once in every six-month period following the initial visit per the guidelines in step 6 above.
12. Make community referrals necessary to assist the family.
13. Discuss Child Health and Disability Prevention (CHDP) services with guardian annually during home visit:
 - Provide guardian with copy of *CHDP Medical and Dental Health Check-Ups (Pub 183)*
 - Obtain guardian's signature on *Child Health and Disability Prevention Referral (PM 357)*

Provide signed copy of CHDP referral to Unit Clerk and file a copy on child's Placement Acco.

14. Discuss Independent Living Plan Services (ILPS) with child if dependency was terminated after child's 16th birthday.
15. Complete *Child Support-Good Cause Claim for Noncooperation (CW 51)* in CWS/CMS using criteria outlined in CFS P&P [Child Support Referrals \(H-0121\)](#)

to determine whether to recommend that child support payments be collected from a child's parents.

See [CWS/CMS Data Entry Standards—CW 51-Child Support-Good Cause Claim for Noncooperation](#) for information about completing and processing form.

16. Obtain *Statement of Facts Supporting Eligibility for AFDC-Foster Care (FC) (FC-2)* from Unit Clerk annually and obtain guardian's signature. Return signed form to Unit Clerk for processing.
17. Sign *Foster Child Data Record and AFDC-FC Certification (SOC 158A)* when revised in CWS/CMS by Unit Clerk.
18. Email assigned Eligibility Technician (ET) *Non-Dependent Legal Guardian Home Visit Verification (F063-25-563)* when annual reassessment of funding is required.
19. Discuss need for clothing allowance with guardian and make referral when appropriate using *Clothing Allowance Authorization (F063-28-320)*.
20. Discuss child's special needs with guardian (if any) and make a request for Specialized Care Increment using *Specialized Foster Care Request (F063-28-164)* when appropriate. Refer to Specialized Care Increments policy section above for additional information.
21. Document each contact in Contact section of child's notebook in CWS/CMS within timeframes established by CFS. Refer to "Contact Requirements and Documentation" section of this policy for additional information.

Required Actions— Set Aside Legal Guardianship Staff	The following actions must be taken to set aside a legal guardianship when dependency has been terminated:	
<u>Responsible</u>	<u>Step</u>	<u>Required Action</u>
Assigned Social Worker	1.	Attempt to schedule Placement Change Team Decision Making (TDM) meeting to determine whether or not the guardianship can be preserved with supportive

services *prior* to determining whether to request a termination when any party requests to set aside a legal guardianship.

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

2. Discuss timing of transfer of case to SSW with Social Services Supervisor (SSS) (if current worker is a Social Worker I [SWI] or Social Worker II [SWII]). Follow procedures in CFS P&P [Case Transfers \(D-0302\)](#) to prepare and transfer case or proceed to step 3 as directed by SSS.
3. a. File *Request to Change Court Order (JV 180)* if guardianship was established in Orange County Juvenile Court and it appears that setting guardianship aside is in best interest of child. If Legal Guardian:
 - Concurs with the decision, request that the guardianship be set aside and request a hearing pursuant to WIC § 366.26 (.26) within 60 days
 - Opposes the decision, request that a hearing be calendared to address the issue of setting guardianship aside

OR

- b. Direct legal guardians to file *Request to Change Court Order* themselves:
 - If guardianship was established in any court other than Orange County Juvenile Court
 - If setting the guardianship aside does not seem to be in child's best interest

Note: Guardianship may only be terminated in court where it was established if termination is for purpose of adoption or emancipation. Petitions for termination of guardianship for other reasons may be filed in juvenile court where the guardianship was established or in juvenile court in county where the guardian and child currently reside, based on child's best interest.

4. Transfer case to SSW as soon as dependency is reopened, if transfer was not done earlier, following the procedures in CFS P&P [Case Transfers \(D-0302\)](#).

Required Actions— Case Termination		The following actions must be taken when a Legal Guardianship—Non-Dependent case is terminated:	
Staff Responsible	Step	Required Action	
Assigned Social Worker	1.	Follow procedures outlined in CFS P&P Placement Change Notification (K-0209) including <u>immediate</u> telephone or email notification of change.	
Assigned Unit Clerk	2.	Follow data entry procedures outlined in CWS/CMS Data Entry Standards—Non-Dependent Legal Guardianship Walk In Requests “Closure” section.	
Assigned Social Worker	3.	Complete <i>Children and Family Services Termination (F063-25-117)</i> following procedure for closing cases outlined in CFS P&P Case Closure (E-0106) .	

Required Actions— Guardian Moves		The following actions must be taken when a Legal Guardianship moves to another residence in Orange County.	
Staff Responsible	Step	Required Action	
Assigned Social Worker	1.	Follow procedures outlined in CFS P&P Placement Change Notification (K-0209) including <u>immediate</u> telephone or email notification of change.	
	2.	Make a home visit as soon as possible after being notified of the move.	
	3.	Email Eligibility Technician the completed <i>Non-Dependent Legal Guardian Home Visit Verification (F063-25-563)</i> following the home visit.	