



[Federal Laws Supporting Transition Planning Advocacy for Youth Involved in the Child Welfare System](#)

Listed below are some of the key provisions of federal law that can be used to support your advocacy for older youth in the child welfare system. Please check your state laws and policies for additional legal support.

Permanency and Family Connections

1. Reasonable Efforts.

The court must make a judicial determination whether the child welfare agency must make reasonable efforts to prevent placement and to finalize an assigned permanency plan. The federal law does not define reasonable efforts, but it is to be individualized based on the family's needs. **42 U.S.C. § 671(a)(15); 45 C.F.R. § 1356.21(b)(2).**

2. Prohibition of Another Planned Permanent Living Arrangement (APPLA) for Youth Under Age 16.

APPLA is prohibited as a permanency plan for youth under age 16. **42 U.S.C.A. § 675(5)(C)(i).**

3. Enhanced Inquiry and Court Findings to use the Permanency Plan of APPLA for Youth 16 and Older.

To select or maintain the plan of APPLA, the court must make the following findings: a. that the agency has documented the intensive, ongoing, unsuccessful efforts to achieve reunification, adoption, guardianship, or placement with a fit and willing relative; and b. that APPLA is the best permanency plan for the child and there is a compelling reason that it is not in the best interest of the youth to return home, be placed for adoption, enter a guardianship arrangement, or be placed with a fit and willing relative. c. that the youth has been asked about his or her desired permanency outcome; and d. that the agency is taking steps to ensure the reasonable and prudent parent standard is being exercised and that the child has regular and ongoing opportunities to engage in age or developmentally appropriate activities. **42 U.S.C.A. § 675a(a).**

4. Least Restrictive/Most Family Like Placement.

Children who are the placement and care responsibility of the child welfare agency must be placed in the least restrictive, most family-like setting. **42 U.S.C.A. § 675(5)(A)(1).**

5. Reasonable Efforts to Place Siblings Together.

The child welfare agency must make reasonable efforts to place siblings together unless the state documents that joint placement would be contrary to the safety or well-being of any of the siblings. If joint placement is not provided, frequent visitation or other ongoing interaction between the siblings must be provided unless that State documents that it would be contrary to the safety or well-being of any of the siblings. **42 U.S.C.A. § 671 (a)(31).**

6. Access to Age Appropriate Activities ("Normalcy").

For youth with the permanency plan of APPLA, the court must document that the youth has regular and ongoing opportunities to participate in age or developmentally appropriate activities. **42 U.S.C.A. § 675a(a)(3)(B).** Note that the normalcy requirement applies to youth in all placement types and permanency plan. **42 U.S.C.A. §671 (10).**

Extended Foster Care

7. Definition of a “Child” for the Purpose of Title IV-E Funded Extended Foster Care.

“Child” means...At the option of a State, the term shall include an individual—

- (i) (I) who is in foster care under the responsibility of the State;
(II) with respect to whom an adoption assistance agreement is in effect under section 673 of this title if the child had attained 16 years of age before the agreement became effective; or (III) with respect to whom a kinship guardianship assistance agreement is in effect under section 673(d) of this title if the child had attained 16 years of age before the agreement became effective;
- (ii) who has attained 18 years of age;
- (iii) who has not attained 19, 20, or 21 years of age, as the State may elect; and
- (iv) who is—
 - (I) completing secondary education or a program leading to an equivalent credential;
 - (II) enrolled in an institution which provides post-secondary or vocational education;
 - (III) participating in a program or activity designed to promote, or remove barriers to, employment;
 - (IV) employed for at least 80 hours per month; or
 - (V) incapable of doing any of the activities described in subclauses (I) through (IV) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child. **42 U.S.C.A. § 675 (8)(B).**

Federal Guidance on Extended Foster Care: [Fostering Connections Guidance](#), ACYF-CB-PI-10-11 (July 9, 2010). This guidance provides interpretations of federal law with respect to youth 18-21.

As of May 2023, 33 states, the District of Columbia, Puerto Rico and seven tribes have a federally approved extended foster care plan, and 21 additional states had a state-funded program¹

IV-E Funding of Supervised Settings in Which a Youth Lives Independently.

The Fostering Connections to Success and Increasing Adoptions Act added this setting to the list of placements/living arrangements that can be funded with IV-E dollars. These living arrangements can be provided to youth who are in extended care and are between age 18 and 21. Federal guidance states that the child welfare agency has great flexibility in developing these settings and provided the following examples: host homes, college dormitories, shared housing, semi-supervised apartments, supervised apartments or another housing arrangement. The guidance also clarifies that these settings do not need to be licensed. **42 U.S.C.A §672(c)(2)**; [Fostering Connections Guidance](#), ACYF-CB-PI-10-11 (July 9, 2010).

8. Court’s Consultation with Youth about the Permanency and Transition Plans.

The court should consult with the child in an age-appropriate manner regarding the proposed permanency and transition plans. 42 U.S.C.A. § 675(5)(C)(iii). If the permanency plan proposed is APPLA, the court must **“ask the child**

¹ AL, AR, AZ, CA, CO, CT, DC, FL, HI, IL, IN, LA, ME, MD, MA, MI, MN, NC, ND, NE, NH, NM, NY, OH, OR, PA, RI, TN, TX, VA, WA, WI, and WV. The seven tribes are the Pascua Yaqui Tribe (AZ), Eastern Band of Cherokee (NC), Navajo Nation (AZ, NM, UT), Keweenaw Bay Indian Community (MI), Penobscot Indian Nation (ME), Mashpee Wampanoag Tribe (MA), and Tolowa Dee-ni’ Nation (CA). [Fostering Youth Transitions: State and National Data to Drive Advocacy 2023](#) 4 (Annie E. Casey Foundation 2023).

about the desired permanency outcome.” **42 U.S.C.A. § 675a(a)(2).**

Due Process, Youth Rights, and Youth Engagement

9. Consultation of the Youth in Case Planning.

Beginning at age 14, the child welfare agency must document that the youth is consulted in the development of the case plan. **42 U.S.C.A. § 675(5)(C)(iv).**

10. Involvement of Individuals Identified by Youth in Case Planning.

Beginning at age 14, the youth must be allowed to involve at least two individuals in case planning who are not a foster parent or part of the casework staff. One of these individuals may be an advocate on normalcy issues. **42 U.S.C. § 675(5)(C)(iv).**

11. Provision of List of Rights.

Beginning at age 14, youth must be provided with a list of their rights as part of the case planning process. The list of rights must be part of the case plan and should address “education, health, visitation, and court participation,” the right to discharge documents, and to “stay safe and avoid exploitation.” The case plan must include a signed acknowledgement that the list of rights has been received and “explained to the child in age-appropriate way.” **42 U.S.C.A. § 675a(b)(1) & (b)(2).**

Transition to Adulthood and Discharge Planning

12. Transition to Adulthood Services.

Beginning at age 14, the case plan must contain a written description of the programs and services which will help the youth prepare for the transition from foster care to a successful adulthood. This can include services like: life skills building, employment and education support and counseling, financial management, housing counseling and support, and relationship building. **42 U.S.C.A. § 675(1)(D).**

13. Court Findings about Transition to Adulthood Services.

Beginning at age 14, the court must make findings about the services needed to assist the child to make the transition from foster care to a successful adulthood. **42 U.S.C.A. § 675(5)(C)(i).**

14. Credit Report and Assistance in Resolving any Credit Issues.

Beginning at age 14, youth must annually receive at no cost a copy of their consumer credit report and assistance in resolving any issue identified in the report. **42 U.S.C.A. § 675(5)(I).**

15. Transition (discharge) Plan Requirement.

At least 90 days before a youth 18 or older discharges from care, a transition plan must be developed with the youth that at least includes “specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services, and includes information about the importance of designating another individual to make health care treatment decisions...” **42 U.S.C.A. § 675(5)(H).**

16. Discharge Documents.

A young person “is not discharged from care [at age 18 or older]without being provided” the following by the child welfare agency: the original or certified copy of the following documents: birth certificate, social security card, state identification card/driver’s license, health insurance information, including any cards needed to access care, and medical records, and official documentation that the youth was in foster care for the purposes of establishing eligibility for programs, benefits and services. **42 U.S.C.A. § 675(5)(I).**

17. Chafee Transition To a Successful Adulthood Services Include Aftercare Services.

Chafee services should be provided while youth are still in care. States are also obligated to provide these services in aftercare to eligible youth until age 21. States are allowed to use up to 30% of their Chafee allocation to provide room and board for youth in aftercare. This can include an array of housing assistance such as a rental subsidy or emergency housing assistance. States must provide Chafee aftercare services to any eligible youth residing in their state regardless of whether the youth was in foster care in that state. **42 U.S.C.A. § 677 (a)(4) & (3)(A)(i).**

Note that The Family First Prevention and Services Act gave states that have extended foster care the option to provide Chafee aftercare services until age 23. As of 2022, the following state, territories, and tribes provide Chafee services until age 23: AR, CA, CO, CT, DC, DE, FL, HI, IL, IN, IA, KY, LA, MD, MA, MI, MN, MO, NE, NM, NY, NH, ND, OK, OR, PA, PR, RI, UT, VT, VA, WA, WV, WI, Prairie Band of Potawatomi, Santee Sioux Nation, Salt River Pima-Maricopa Indian, Pacua Yaqui, Tolowa Dee-ni’ Nation, Confederated Tribe of Warm Spring, Port Gamble S’Klallam Tribe of Kingston

18. Chafee Education and Training Voucher (ETV).

ETV provides Chafee eligible youth up to \$5000 to cover the cost of attendance for higher education and training. The Family First Prevention and Services Act has given all states the option to provide ETV until age 26. **42 U.S.C.A. § 677(i).**

19. Independent Student Status on the Free Application for Federal Student Aid (FAFSA)

Youth who were in foster care at age 13 or older are considered independent students under the FAFSA for the purpose of federal financial aid. 20 U.S.C.A. 1087 uu-2 (b)

20. Transition Planning in the Individualized Education Plan (IEP)

34 C.F.R. 300.320(b) Definition of individualized education program.

Transition services. Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include—

- (1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
- (2) The transition services (including courses of study) needed to assist the child in reaching those goals.

**Please note that your state may have law that requires that transition planning in the IEP begins at an age younger than 16.

20 U.S.C.A 1401 (34) TRANSITION SERVICES

The term “transition services” means a coordinated set of activities for a child with a disability that—

(A) is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(B) is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and

(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

34 C.F.R. § 300.43 Transition services.

(a) *Transition services* means a coordinated set of activities for a child with a disability that—

(1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes—

(i) Instruction;

(ii) Related services;

(iii) Community experiences;

(iv) The development of employment and other post-school adult living objectives; and

(v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

(b) *Transition services* for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education.

21. Medicaid for Former Foster Youth.

Youth who were in foster care at age 18 and enrolled in Medicaid at that time are categorically eligible for Medicaid until age 26 regardless of income. **42 U.S.C.A. § 1396a(a)(10)(A)(i)(IX).**

As of January 1, 2023, pursuant to the [SUPPORT Act](#) (P.L. 115-271), states must provide Medicaid coverage for former foster youth no matter what state they were in foster care. This will mean that youth can move anywhere in the country and still be covered by Medicaid under the former foster youth category until age 26. However, this new law only applies to young people who turn age 18 on or after January 1, 2023.

States can opt to cover former foster youth from other states who turned age 18 prior to January 1, 2023 by submitting a Medicaid 1115 Demonstration Waiver.

22. Family Unification Program and Fostering Youth to Independence Vouchers.

The following young people are eligible for Family Unification Program Vouchers for Youth and Foster Youth to Independence Vouchers:

- At least 18 years of age and not more than 24 years of age, and

- left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act [42 U.S.C. 675(5)(H)], and
- is homeless or is at risk of becoming homeless at age 16 or older.

42 U.S.C.A. 1437f(x)(2).

Young people are eligible for the voucher for three years with an option to extend the voucher for two more years if they are participating in the Family Self Sufficiency Program (FSS) or a similar program.

Last edited: May 10, 2024

For more information, contact Jenny Pokemper at jpokempner@ylc.org.