

Federal Laws Supporting Youth Transitioning to Adulthood

Listed below are some of the provisions of federal law that can be used to support your advocacy related to older youth.

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 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). Note that the [Family First Prevention and Services Act](#) provides new requirements that limit IV-E funding to reduce the use of group care. These funding restrictions will be useful in advocating for systemic reform. The provisions related to placement in residential settings that are defined as QRTPs will also support advocacy for less restrictive settings. These provisions can be found at section 50741 of Family First and will amend 42 U.S.C.A. § 672.

5. 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).¹

6. 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).

7. 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)).

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

¹Federal guidance on extended foster care can be found in: [Fostering Connections Guidance](#), ACYF-CB-PI-10-11 (July 9, 2010). This guidance provides interpretations of federal law with respect to youth 18-21. This is helpful because very little of the statute itself was amended to meet the needs of youth 18-21 who remain the placement and care responsibility of the child welfare agency.

9. Consultation 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 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).

12. Transition to adulthood services begin at age 14.

Beginning at age 14, the case plan must contain a written description of the programs and services which will help such child 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. 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 gives states that have extended foster care the option to provide Chafee aftercare services until age 23.

14. Court findings about needed 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).

15. Credit report and assistance in resolving any credit issue.

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).

16. 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 work force 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).

17. Discharge documents.

The child welfare agency must provide the following to youth when they leave the system at age 18 or older:

- 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. 42 U.S.C.A. § 675(5)(I).
- 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).

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 (as opposed to the current cutoff of age 23). 42 U.S.C.A. § 677.

19. 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. § 1902(a)(10)(A)(i)(IX).

Currently, states are not obligated to cover youth who were in foster care in other states under this provision, but the following states do cover youth from out of state through a Medicaid 1115 Waiver:

California , Delaware, Kentucky, Massachusetts, New Mexico, Pennsylvania, South Dakota, Utah, Virginia, Wisconsin

Pursuant to the [SUPPORT Act](#) (P.L. 115-271), in **2023**, all states will need to cover 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.