



CDSS

WILL LIGHTBOURNE
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



EDMUND G. BROWN JR.
GOVERNOR

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☒ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

April 22, 2016

ALL COUNTY LETTER NO. 16-28

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CHILD WELFARE PROGRAM MANAGERS
ALL COUNTY CHIEF PROBATION OFFICERS
ALL FOSTER FAMILY AGENCY DIRECTORS
ALL CDSS ADOPTION REGIONAL AND FIELD OFFICES
ALL TITLE IV-E AGREEMENT TRIBES

SUBJECT: ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT
(APPLA)

REFERENCE: PUBLIC LAW (PL) 113-183; SENATE BILL 794 (CHAPTER 425, STATUTES OF 2015); WELFARE AND INSTITUTIONS CODE SECTIONS 366, 366.21, 366.22, 366.25, 366.26, 366.3, 366.31, 706.5, 706.6, 727.2, 727.3, 16501, 16501.1, AND 16519.51

The purpose of this All County Letter (ACL) is to update changes made to permanency options for youth in foster care, in accordance with the Preventing Sex Trafficking and Strengthening Families Act of 2014 (PL 113-183) (hereinafter "Strengthening Families Act"). The provisions of the Strengthening Families Act were signed into state law on October 1, 2015 through Senate Bill (SB) 794 (Chapter 425, Statutes of 2015). The SB 794 allows California to implement these provisions and remain in compliance with the federal Title IV-E State Plan.

APPLA

One of the goals of the Strengthening Families Act was to strengthen the concurrent planning process to achieve better permanency outcomes and to avoid children languishing in foster care for extended periods. The APPLA is any permanent plan for a youth in an out-of-home foster care placement, in which a youth may remain until adulthood, when the options to return home, place with a relative, place for adoption, tribal customary adoption, or legal guardianship have been ruled out. When the recommendation for a youth is a permanent plan of APPLA, the case plan should identify necessary services that will further the youth's transition to independent living and successful adulthood. The case plan should also outline the efforts the county placing agency is making to reduce the barriers to achieving any of the more permanent plans.

The new provisions limit a permanent plan of APPLA to be ordered **only for children 16 and older and non-minor dependents**. The APPLA is the last option a county placing agency may

recommend to the court, after the agency has documented all their efforts to establish a more permanent plan at the time of the permanency hearing. When a youth is in APPLA, the county placing agency must document in the case plan the ongoing and intensive efforts to return home, adoption, tribal customary adoption, legal guardianship or placement with a fit and willing relative, as appropriate. During each permanency hearing for a youth whose permanent plan is APPLA, the court is required to ask the youth about his or her desired permanency outcome, make a judicial determination that APPLA is the best permanency plan for the youth and identify the compelling reasons why it is not in the best interest of the child to return home, be placed for adoption or tribal customary adoption, be placed with a legal guardian or with a fit and willing relative.

Fit and Willing Relative

The SB 794 also added placement with a “fit and willing relative” as a permanency option for all youth. Welfare and Institutions Code section 366.26(c)(4)(B), defines a fit and willing relative as an approved placement with a relative who is willing and capable of providing a stable and permanent home environment for the child, but is unable or unwilling to commit to legal permanence through adoption, tribal customary adoption, or guardianship at the time of the hearing. This new provision creates additional supports and allowances to county placing agencies and courts for the maintenance of foster youth with relatives who do not wish to adopt or become legal guardians. The relative’s unwillingness to adopt does not justify the removal of the child from the home if the court finds the removal would be seriously detrimental to the child’s emotional well-being. With a permanent plan of a fit and willing relative, the county placing agency must continue to provide services that will address the barriers identified by the court to a more stable permanent plan, such as adoption or legal guardianship, at subsequent permanency hearings.

Permanency For Children 16 and Older and Non-Minor Dependents:

The court may order APPLA for the youth age 16 or older and non-minor dependents if appropriate. For children placed in foster care under an APPLA permanency plan, the following requirements apply:

- The social worker or probation officer **must** provide the court with the following information in the social study/court report prepared for each permanency review hearing held for children 16 years of age or older in another planned permanent living arrangement:
 - A description of the intensive and ongoing efforts of the county placing agency to return the youth to the home of the parent, place the youth for adoption, tribal customary adoption, or establish a legal guardianship;
 - The steps taken to ensure the youth’s care provider is following the reasonable and prudent parent standard; and
 - The steps taken to ascertain whether the youth has regular opportunities to engage in age or developmentally appropriate activities, including consulting with the youth regarding his or her desires and opportunities to participate in various activities.

- The social worker or probation officer are to include in the case plan for any child who is 16 or older and in APPLA an identification of the intensive and ongoing efforts to return the youth to the home of the parent, place the youth for adoption or tribal customary adoption, establish a legal guardianship or place the youth or non-minor dependent with a fit and willing relative, as appropriate. Per federal law, efforts must include the use of technology including social media to find biological or other family members of the child. County placing agencies are encouraged to work with their county counsel and information technology departments regarding local policies related to the use social media in a manner than maintains the confidentiality and privacy of children and families in the foster care system.

Permanency For Children Under 16:

For children under 16 years of age, federal law and SB 794 eliminate APPLA as an allowable permanency option. As a result of this new legislation, the court must order a permanent plan of return home, adoption, tribal customary adoption, legal guardianship or placement with a fit and willing relative, as appropriate, for any child under the age of 16 who remains in a foster care placement after reunification services are terminated.

The SB 794 requires the social worker or probation officer to provide the court with documentation of any barriers to achieving the permanent plan and the efforts made by the child welfare agency to address those barriers. If a child under the age of 16 currently has a permanent plan other than return home, adoption, tribal customary adoption, legal guardianship or placement with a fit and willing relative, the county placing agency must apply the new requirements described in this section and choose a permanency plan other than APPLA at the child's next permanency hearing.

If you have any questions regarding this ACL, please contact the Permanency Policy Bureau at (916) 657-1858 or ConcurrentPlanningPolicyUnit@dss.ca.gov.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

c: County Welfare Directors Association
Chief Probation Officers of California
Judicial Council of California