

Grandparent Visitation Rights In Foster Care

A Fact Sheet Prepared by the Youth Law Center

How can a grandparent get visitation rights when the grandchild is in foster care?

Grandparents should voice their interest in establishing visitation with the child to the child welfare agency **and** the juvenile court as soon as possible after the child is removed from the parent's home.

When the juvenile court orders removal of the child from the physical custody of his or her parents in a dependency proceeding, it must consider whether family ties and the best interest of the minor child will be served by granting visitation rights to the minor's grandparents.¹ When the court grants visitation rights to the child's grandparents, it must clearly specify those rights to the social worker.²

The social study or evaluation presented to the court by a social worker or court appointed special advocate must include information about whether the best interests of the child will be served by granting reasonable visitation rights to the child's grandparents in order to maintain and strengthen the child's family relationships.³

The child welfare case plan for all children in out-of-home care must include a plan for visitation of the child by his or her grandparents when visitation is in the best interest of the child and will serve to maintain and strengthen the family relationships of the child,⁴ and the social worker is responsible for arranging the visits.⁵

How will a grandparent know if a child has been taken into foster care?

When a child is removed from home, the social worker or probation officer must conduct an investigation to identify and locate the child's grandparents and other adult relatives. The social worker or probation officer must provide the relatives with notice that the child has been removed from home and information about how to become a foster parent or relative caregiver, the supports and services available for a child in out of home placement, and other options for maintaining contact with the child, such as visitation. Grandparents will also receive a relative information form to provide information to the social worker and the court regarding the needs of the child. The form

¹ Cal. Wel. & Inst. Code § 361.2(h), California Rules of Court 5.695(a)(7)(C).

² Cal. Wel. & Inst. Code § 361.2(h), *see also*, Court Form JV-402.

<http://www.courtinfo.ca.gov/forms/documents/jv402.pdf> The number of orders for visitation with grandparents and other adults is a child and family well-being performance measure for California Juvenile Courts. California Rules of Court 5.505(b)(5)(I).

³ Cal. Wel. & Inst. Code §358.1(c)

⁴ Cal. Wel. & Inst. Code §16507(a), California Department of Social Services, Manual of Policies and Procedures (MPP) 31- 206.33. *See also*, Abbott, *et al.*, CALIFORNIA JUVENILE DEPENDENCY PRACTICE §11-24 (Continuing Education of the Bar 2002).

⁵ MPP 31-345

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shall include a provision whereby the relative may request the permission of the court to address the court, if the relative so chooses. The notice does not have to be given if there is a history of family or domestic violence that would make such notice inappropriate.⁶

However, a grandparent should **not** wait for formal notice if he or she thinks a grandchild has been taken into foster care. Contact the child welfare agency right away.

Does a foster child have a right to visit with a grandparent if there is no court visitation order?

A foster child has a right to contact family members, including grandparents, unless prohibited by court order.⁷ This contact includes visits, phone calls, and mail.⁸

How are grandparents' visitation rights affected by termination of their adult child's parental rights?

When the court terminates a parent's parental rights, the legal relationship between the grandparent and the child is also changed. Nevertheless, the child has the right to have social contacts with people who are important to him or her,⁹ and the juvenile court has broad powers to make any and all reasonable orders for the care and custody of the child, including visitation with people who are important to the child.¹⁰ If the child is adopted, the adoptive parents will be able to determine who can visit the child in most circumstances.¹¹

⁶ Cal.Wel. & Inst. Code §§309(e)(1),(2) & 628(d)(2); California Department of Social Services, All County Letter No. 09-86, Notification of Relatives (December 29, 2009.)

⁷ Cal. Wel. & Inst. Code §16001.9(a)(6).

⁸ Cal. Wel. & Inst. Code §16001.9(a)(9); 22 Cal Code Regs. §§80372(a)(3)&(5) (foster family placement); 80472(c)(4),(5),(11),(12),&(20)(group home placement);88068.2(a)(6)&(e) (foster family agency).

⁹ Cal. Wel. & Inst. Code §16001.9(a)(15), also see foster care provider requirements at note 7.

¹⁰ Cal. Wel. & Inst. Code §362(a).

¹¹ See, *Huffman v. Grob*, 172 Cal.App.3d 1153 (Cal. App. 2nd Dist. 1985).