

Teen Parents' Rights in Out-Of-Home Care

A Fact Sheet Prepared by the Youth Law Center

This fact sheet addresses specific rights a foster youth has as a parent within the foster care system. For a general overview of what rights a parent has when his or her child is deemed a dependent within the court's jurisdiction, please see: **Overview of the Foster Care System.**

What happens if a youth in out-of-home care has a baby?

If a foster youth becomes pregnant while in foster care, the decision of whether to keep the baby, put the baby up for adoption, or have an abortion is entirely up to the pregnant teen. A foster youth has the same right as other teens to obtain advice on birth control, family planning, and pregnancy tests without the consent of anyone else.¹

If a foster youth gives birth, the newborn child will not automatically become a dependent or be taken away from the foster youth. Rather, the mother and child should be kept together in as family-like a setting as possible. To the greatest extent possible, the teen and her child should have access to services targeted at supporting, maintaining, and developing the parent-child bond and the teen's individual skills.² The county child welfare agency may file a petition for dependency of the baby if it believes that the baby has been abused or neglected in the teen's care or is at risk of abuse or neglect in the teen's care.³ If the court finds that the foster youth's child is a dependent, the court may order the agency to place the child with the mother or in a separate foster care arrangement if placement together poses a risk of harm to the child.⁴

What type of visitation is available between a foster youth and his or her child?

Foster youth have a right to contact with family members, including their own children.⁵ This contact includes visitation, phone calls, and mail.⁶ The child welfare agency has an affirmative duty to facilitate frequent visitation and contact between the foster youth and his or her child when contact is in the child's best interest.⁷ If the foster youth's child is a dependent of the juvenile court and placed in a separate foster care arrangement, the order placing the child in foster care must provide for frequent visitation between the teen parent and her child, consistent with the child's well-being.⁸

¹ Cal. Fam. Code § 6925; *American Academy of Pediatrics v. Lungren*, 16 Cal. 4th 307 (1997).

² Cal. Welf. & Inst. Code §§ 16002.5, 16004.5 .

³ Cal. Welf. & Inst. Code §§ 300, 305, 309.

⁴ Cal. Welf. & Inst. Code §§ 361, 16002.5.

⁵ Cal. Welf. & Inst. Code §§ 362.1, 16001.9(a)(6).

⁶ Cal. Welf. & Inst. Code §§ 16001.9(a)(7), (9).

⁷ Cal. Welf. & Inst. Code §§ 16002.5

⁸ Cal. Welf. & Inst. Code § 362.1; unless such contact may jeopardize the safety of the child.

Will the cost of care of the foster youth's child be covered by foster care?

If a foster youth's child is living with the youth in a foster care placement, the foster care provider will receive additional foster care funding to cover the basic care and supervision of the foster youth's child.⁹ Foster family homes, including approved kinship placements, licensed foster homes and certified foster homes that are specifically recruited and trained to provide foster care for minor parents and their children will receive additional foster care funding at a rate equal to the basic foster care rate and may receive an additional supplemental payment for increased care and supervision services provided pursuant to a shared responsibility plan¹⁰. The California Department of Social Services determines the supplemental payment rates to other foster care facilities housing foster youth with children.¹¹

Does being a dependent preclude a teen parent from reunification services?

No. If the minor child is not placed with the teen parent in the same foster care arrangement, the teen parent is eligible to receive reunification services. The fact that the teen is a dependent of the court does not preclude the teen from receiving reunification services.

Resources:

The California Courts Self-Help Center, Juvenile Dependency
<http://www.courtinfo.ca.gov/selfhelp/family/juv/>

The Judicial Council of California, *The Dependency Court: How it Works: JV-055* (2001).
<http://www.courtinfo.ca.gov/forms/documents/jv055.pdf>

The Judicial Council of California, *Juvenile Court Information for Parents: JV-050* (1999).
<http://www.courtinfo.ca.gov/forms/documents/jv050.pdf>

The Youth Law Center, *Legal Rights of Teens in Out-Of-Home Care* (2011).
<http://ylc.org/pdfs/teenmanual2011.pdf>

⁹ Cal. Welf. & Inst. Code § 11465.

¹⁰ Cal. Welf. & Inst. Code § § 11400(t), 11465, 16501.25.

¹¹ Cal. Welf. & Inst. Code § 11465.