

A photograph of several hands of different skin tones holding a bright red heart. The hands are positioned in a way that they appear to be supporting the heart from below. The background is a blue wooden surface with a distressed, peeling paint texture. A semi-transparent white box is overlaid on the upper left portion of the image, containing the title text.

Advocating for the Most Connected Placement: A Guide to Reducing the Use of Group Care



The Youth Law Center advocates to transform foster care and juvenile justice systems so that every child and youth can thrive. Our work aims to ensure children are not only protected from harm and dangerous conditions, but also receive the support, opportunities and love they need to grow up healthy and happy. For decades we have led the field to transform systems to be truly child-focused and research informed through litigation, policy reform, media advocacy, collaborative system change projects, training and advice, and public education. For more information about Youth Law Center's work, visit <https://ylc.org/>.

Juvenile Law Center advocates for rights, dignity, equity and opportunity for youth in the foster care and justice systems. Founded in 1975, Juvenile Law Center is the first non-profit, public interest law firm for children in the country. We fight for youth through litigation, appellate advocacy and submission of amicus (friend-of-the-court) briefs, policy reform, public education, training, consulting, and strategic communications. Widely published and internationally recognized as leaders in the field, Juvenile Law Center has substantially shaped the development of law and policy on behalf of youth. We strive to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are rooted in research, consistent with children's unique developmental characteristics, and reflective of international human rights values. For more information about Juvenile Law Center's work, visit www.JLC.org.



TABLE OF CONTENTS

Introduction	4
1. Is permanency being pursued for the youth in accordance with the law?	5
2. Has the youth been engaged in decision making and in court?	8
3. What is the reason for the group care recommendation?	10
4. What are the specific needs of the child that require group care?	12
5. Has a less restrictive environment been attempted or recommended? Can the identified treatment or special needs be met in a family setting? If not, why not?	16
6. Does the proposed group care facility have all necessary licenses and certifications to provide the treatment services the child needs?	18
7. Does the proposed group care facility have the capacity to meet the specific treatment needs of the child?	20
8. Is the facility able to meet any identified special need of the child (for example, related to language, sexual orientation, or disability)?	22
9. How will the facility determine whether the services are effective in meeting the needs of the child?	25
10. How often and through what process will the need for group care placement be reviewed?	27
11. What is the plan for including the child's family, caregiver, and other people who are important to the child in treatment and providing ongoing communication and visitation?	29
12. Will the child's educational needs be met in accordance with the law while placed in group care?	31
13. How will the child's need for routine and preventive health care be met? Does the child have any special medical needs? How will those needs be met?	33
14. What age-appropriate activities and what experiences for developing adult living skills will the child be able to participate in while at the placement?	35
15. What is the plan for transitioning the child out of the facility to a family based setting?	37



INTRODUCTION ---

This Guide is intended to be a practical tool that can be used by attorneys and advocates to ensure that youth are in living settings where they can be connected with family, the community, and a support system. We will refer to this as “the most connected placement.” The tool is divided into fifteen questions and principles to guide your analysis and offer different points of intervention during the course of a case. Do not be overwhelmed by the number of questions as all may not apply to the situations and posture of your case. The questions and principles are meant to prompt your thinking and action. Each section provides concrete suggestions for actions you can take in and out of court to get your clients in the most connected placements where they can have their needs met and thrive. It also provides the legal and social science authority to support the suggested actions.

In this tool, we will use the term group care to refer to all non-family based settings where children live in a group setting with staff as their primary caregivers rather than foster parents or kinship caregivers. Currently, this tool has federal law and CA law. Our next step is to create a version of this tool that allows advocates from each state to include their state specific law. There are a range of settings for children and youth that fall in the category of group care. Some, for example, are funded by Medicaid and have a clinical and treatment focus, while others are funded by general child welfare dollars. While there is variation in the types of group care settings that are provided, this tool seeks to support advocacy that works towards the elimination of all group care and the development of a system of services and supports that allow youth and families to thrive in the community.

► **Actions To Take**

Authorities & Support

Is permanency being pursued for the youth in accordance with the law?

Principle

Children should grow up in families and ensuring family or family-like relationships is the first priority of the child welfare system.



ACTIONS TO TAKE

Out of Court

Determine whether:

- The youth understands what permanency is and the options available.
- The selected permanency plan is appropriate, in line with the law, and what the child wants.
- All permanency plans have been fully considered.
- The child is receiving all necessary and available permanency services, including, but not limited to: family finding, child specific recruitment, teamings/conferencing, mining of the file, grief and loss support, and behavioral health treatment.
- The child has a support network or caring adults.
- Family or identified resources are being offered services and supports.
- The child is placed with his or her sibling, if not why, and whether visitation is occurring.

Request:

- A case planning meeting and/or conferencing or teaming to discuss any issues identified above.
- That family, kin or caring adults are invited to the case planning meeting to talk about permanency.
- The case plan and permanency plan be revised to provide identified permanency services and any services around sibling placement and visitation.

In Court

- Ask for a no reasonable efforts finding to be made if permanency services are not being provided and adequate efforts are not being made.
- Ask that identified permanency services be ordered.
- Oppose assigning the permanency plan of APPLA.
- If APPLA is selected as the permanency plan ensure that the appropriate legal findings are made at every permanency hearing and that the precise APPLA for the child is described.
- Ask that efforts be made for siblings to be jointly placed and/or that visitation is scheduled.

Is permanency being pursued for the youth in accordance with the law?



AUTHORITIES & SUPPORT

Social Science Research & Expert Opinion

“ Child development theory, federal legislation, and best practice confirm what we know intuitively—children should be placed in settings that are developmentally appropriate and least restrictive. For young children, particularly those age 12 and under, it is particularly important for their developmental needs to be met in family-like settings.

”

Children’s Bureau, U.S. Department of Health and Human Services, *A National Look at the Use of Congregate Care in Child Welfare* (2015).

Mary Dozier et al, *Institutional Care for Young Children: Review of the Literature and Policy Implications*, Social issues Policy Review (March 2012) (reviewing the research and literature showing why institutional care is at odds with children’s needs, and reviewing the empirical evidence regarding the effects of institutional care on young children and the need for family placement).

Federal Law Support

42 U.S.C.A. §671(a)(15)

(judicial determination of reasonable efforts must be made to finalize the permanency plan to secure IV-E reimbursement)

42 U.S.C.A. § 671(a)(29)

(IV-E state plan requirement that there be a preference for relatives over non-relative placement)

42 U.S.C.A. § 671(a)(31)

(requiring as part of the state’s IV-E plan that reasonable efforts be made to place siblings together and to provide for frequent visitation when joint placement is at odds with the children’s safety)

42 U.S.C.A. § 675(5)(A)(1)

(the case plan for the youth must provide the least restrictive, most family-like setting where the youth’s needs can be met)

42 U.S.C.A. § 675a(a)

(restriction on the approval of the permanency plan of APPLA, including documentation of intensive, ongoing, unsuccessful efforts for family placement, judicial determination that the arrangement is the best permanency plan for the child and the compelling reasons why it continues to not be in the best interests of the child to have the more preferred permanency plans, and asking the child about their desired permanency plan)

42 U.S.C.A. § 675a(a)(3)

(requirement that at each permanency hearing that the agency document to the court the steps it is taking to ensure that the reasonable and prudent parent standard is being applied and that the youth has ongoing opportunities to participate in age appropriate activities in foster care and child care institutions)

Actions To Take

► Authorities & Support

Is permanency being pursued for the youth in accordance with the law?



AUTHORITIES & SUPPORT

CA State Law Support

WIC § 366

(requiring periodic reviews to determine whether reasonable efforts towards permanency have been made and what efforts have been made to maintain sibling relationships)

WIC § 16501(h)(2)

(requiring a compelling reason for APPLA plan for children 16 or older; forbidding the use of group care facilities as a permanent plan)

WIC § 16501(a)(8)

(defining “specialized permanency services” to include mental health services, permanency support services, and services to identified permanent family and requiring that they be provided to youth with the plan of APPLA)

► **Actions To Take**

Authorities & Support

Has the youth been engaged in decision making and in court?

Principle

When youth are engaged in decision making and in court, better decisions are made and relationships are more likely to be highlighted and prioritized, making placement in group care less likely.



ACTIONS TO TAKE

Out of Court

Determine whether:

- The youth is being meaningfully included in case planning and in court.
- The youth has been prepared to meaningfully engage in meetings and in court and if not, what preparation is needed.
- Youth who are age 14 and older have been provided a list of their rights and understand them.
- The youth understands his or her right to file a grievance or complaint and provide assistance if needed.
- The youth is aware of and/or would like to participate in any youth advocacy programs or youth boards.

Request:

- Any arrangements, like timing or transportation assistance, to make it possible for a youth to attend a meeting or court.
- Inclusion of kin, family, and caring adults who will enhance youth engagement and participation in meetings.

In Court

- Ask for transportation and scheduling orders to ensure youth are able to attend meetings and court.
- Ask for hearings to be rescheduled if a youth is not present and would like to be present.
- Ensure that the court make findings that support the requirement for consultation with the youth.
- Ensure that family members and kin that support the youth are included in the hearing to facilitate engagement of the youth.

Has the youth been engaged in decision making and in court?



AUTHORITIES & SUPPORT

Social Science Research & Expert Opinion

National Council of Juvenile and Family Court Judges, Technical Bulletin, *Seen, Heard, and Engaged: Children in Dependency Court Hearings* (August 2012) (describing the policy of NCJFCJ that children attend and be engaged in court hearings and practice tips for supporting this policy).

Krinsky, Miriam Aroni, *The Effect of Youth Presence in Dependency Court Proceedings*, *Juvenile and Family Justice Today* (Fall 2006) (describing the positive impact of youth engagement in court).

Jaclyn J. Jenkins, *Listen to Me! Empowering Youth and Courts Through Increased Youth Participation in Dependency Hearings*, *Family Court Review* (December 19, 2007) (describing the benefits for youth and the court of youth engagement).

Federal Law Support

[42 U.S.C.A. § 675\(1\)\(B\)](#)

(requiring that youth age 14 or older be consulted in the development of the case plan and any revision of the plan)

[42 U.S.C.A. § 675\(1\)\(B\)](#)

(requiring that youth be given the option to choose “up to 2 members of the case planning team...who are not a foster parent of, or caseworker for, the child” including one individual who may be “designated to be the child’s advisor and, as necessary, advocate with respect to the application of the reasonable and prudent parent standard to the child”)

[42 U.S.C.A. § 675a\(b\)](#)

(requiring that youth who are age 14 and older are provided with a list of their rights as part of the case planning process)

[42 U.S.C.A. § 675\(5\)\(H\)](#)

(requiring that the youth be supported in developing their

transition plan and the plan should be “personalized at the direction” of the youth)

[42 U.S.C.A. § 675\(5\)\(C\)](#)

(requiring that the court consult with the youth in an age appropriate manner about the permanency and transition plan)

[42 U.S.C.A. § 675a\(a\)\(2\)\(A\)](#)

(requiring that the court “ask the child about the desired permanency outcome” if they have the permanency plan of APPLA)

[42 U.S.C.A. § 675a\(a\)\(3\)\(B\)](#)

(requirement to consult with the youth in an age-appropriate manner about participation in age-appropriate activities).

[H.R. 1892, FFPSA, §50741](#)

(requiring that youth who may be placed or are placed in QRTPs are engaged in the planning and assessment phases of the process)

CA State Law Support

[WIC § 16001.9](#)

(listing the rights of foster youth, including the rights to attend court hearings, to speak to the judge, and to participate in case and permanency planning)

[WIC § 16501.1\(g\)\(13\)](#)

(requiring that children have a meaningful opportunity to participate in the case plan and state a preference for placement)

► **Actions To Take**

Authorities & Support

What is the reason for the group care recommendation?

Principle

Placement in group care should not be due to convenience or a lack of resources, but because the child meets specific requirements for that level of care and the care is necessitated by treatment needs. State law or regulation should provide parameters for this.



ACTIONS TO TAKE

Out of Court

- Understand the recommended type and level of care of the placement. Is it a QRTP, Medicaid funded placement, or non-treatment group care?

Determine whether:

- All criteria required under law and regulation have been met to justify the group care recommendation.
- There is a treatment-based rationale for the group care placement.
- The recommendation is valid and supported by a comprehensive evaluation.
- Efforts to provide treatment in the community have been exhausted.
- Services can be developed that would allow placement and treatment in the community.
- The child's family has been engaged prior to placement or shortly thereafter to help determine whether an appropriate family-based setting is available.
- A child and family team meeting has taken place. See [Team Decision Making](#) for more details.

In Court

- Ask the agency to present evidence demonstrating the need for group care placement.
- Be prepared to challenge the basis of the recommendation through the presentation of witnesses, research, or other evidence.
- Be prepared to ask whether less restrictive means have been tried and to request the court order services in the community.
- Be prepared to ask whether this placement is being made due to disability or special need.
- Ask for a Child and Family Team Meeting, including the youth.
- Ask for the completion of a comprehensive evaluation that will identify all treatment needs and most appropriate placement and treatment services.

Actions To Take

► Authorities & Support

What is the reason for the group care recommendation?



AUTHORITIES & SUPPORT

Social Science Research & Expert Opinion

“ Group settings should not be used as living arrangements, because of their inherently detrimental effects on the healthy development of children, regardless of age. Group care should be used for children only when it is the least detrimental alternative. That standard is met only when there is no less restrictive setting available to meet a child’s need for therapeutic mental health services. ”

Dozier, M., Kaufman, J., Kobak, R., O’Connor, T. G., Sagi-Schwartz, A., Scott, S., Shauffer, C., Smetana, J., van IJzendoorn, M. H., & Zeanah, C. H., *Consensus Statement on Group Care for Children and Adolescents: A Statement of Policy of the American Orthopsychiatric Association*, *American Journal of Orthopsychiatry*, 84(3), 219–225 (2014).

Children’s Bureau, U.S. Department of Health and Human Services, *A National Look at the Use of Congregate Care in Child Welfare* (2015).

Federal Law Support

42 U.S.C.A. § 675(1)(A)& (B)

(requiring that the case plan include a description of the type of home or institution in which a child is to be placed, including a discussion of the safety and appropriateness of the placement and how the child’s needs will be met while in placement)

42 U.S.C.A. § 675(5)(A)

(requiring that the court ensure that the child has a case plan designed to achieve placement in a safe setting that is the least restrictive, most family-like, and most appropriate setting available and in close proximity to the parent’s home, consistent with the best interests and special needs of the child)

CA State Law Support

WIC § 16501.1(d)

(requiring the case plan to explain the reasons for a placement, including a congregate care placement, and listing factors to be considered in selecting placement)

MPP 31-405 SOCIAL WORKER RESPONSIBILITIES FOR PLACEMENT

(listing actions and requirements for social workers to complete before placement)

MPP 31-420 FOSTER CARE PLACEMENT

(requiring social worker to consider the child’s needs when making placement decisions, including the need for the least-restrictive, most family-like placement, and listing a priority order for placements)

► Actions To Take

Authorities & Support

What are the specific needs of the child that require group care?

Principle

Group care is only potentially justified if there is a treatment need that cannot be met in a less restrictive setting. The specific treatment need of the child and required services to meet that need must be identified.



ACTIONS TO TAKE

Out of Court

Determine whether:

- All of the youth's specific needs have been documented through an evaluation or other valid means.
- Services have been attempted to address those needs.
- An evaluation has been completed; request one if it has not.
- Any educational needs have been identified and whether there is a need for a screening for special education or for a revision of the IEP; request that a screening or IEP meeting occur if needed.
- The placement meets the federal definition of a Qualified Residential Treatment Program (QRTP) and if so whether the required assessments been completed and the whole permanency planning team, including the youth, has been included.
- The group care recommendation is based on the child's physical or other disability, language needs, sexual orientation, gender identity, or other need (rather than the treatment the facility targets).
- The recommended placement is being made—or the child is being excluded from less restrictive settings—because it is easier to meet his/her needs in this setting because of a physical or other disability and contact your local [Protection](#)

and [Advocacy Agency](#) to determine whether such treatment violates disability discrimination laws and to work with them to take appropriate action.

- The exclusion or limitation in placement options has to do with any other special need, such as language or gender or sexual orientation, consider whether there is a legal violation and whether it might be appropriate to file a complaint with the [U.S. Department of Health and Human Services' Office of Civil Rights](#) or with the [California Department of Social Services](#).
- A placement in group care is being made solely due to the youth being a victim of commercial sexual exploitation, and consider whether less restrictive alternatives have been attempted and whether the recommended placement has specific interventions, beyond being physically remote, to serve the child's needs.

In Court

- Request that the court order a comprehensive evaluation that will identify all treatment needs and most appropriate placement and treatment services.
- Request that any educational screening be completed or that needed actions be taken to revise the IEP.

► **Actions To Take**

Authorities & Support

What are the specific needs of the child that require group care?



ACTIONS TO TAKE

- Ask for a hearing and for the agency to demonstrate how services in the community have been attempted and exhausted.
- Ask that the agency provide or the court order services, including educational, direct treatment, and other community-based services in lieu of group care placement.
- If the placement is in a QRTP, make sure that the court makes the required findings related to ongoing QRTP placement:
 - Demonstrating the ongoing assessment that the child's needs continue to be best met in a QRTP and it is consistent with the child's short- and long-term goals.
 - Documenting the specific treatment or service needs that will be met by the QRTP and the length of time the child is expected to need those treatment and services.
 - Documenting the efforts made to prepare the child to exit care or to be placed in a foster family home.
 - Request that the court not approve the group care placement if there is not sufficient justification or insufficient information is provided to the court to make the required findings.

Actions To Take

► Authorities & Support

What are the specific needs of the child that require group care?



AUTHORITIES & SUPPORT

Social Science Research & Expert Opinion

“ It is important for children to be cared for in the least restrictive, most family-like setting possible. At times, congregate care is necessary to ensure a child’s safety and stabilization, but it should be used judiciously, efficiently, and effectively. ”

Dozier, M., Kaufman, J., Kobak, R., O’Connor, T. G., Sagi-Schwartz, A., Scott, S., Shauffer, C., Smetana, J., van IJzendoorn, M. H., & Zeanah, C. H., *Consensus Statement on Group Care for Children and Adolescents: A Statement of Policy of the American Orthopsychiatric Association*, *American Journal of Orthopsychiatry*, 84(3), 219–225 (2014).

U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau, *A National Look at the Use of Congregate Care in Child Welfare* (May 2015).

Federal Law Support

[42 U.S.C.A. § 675\(1\)\(B\)](#)

(requiring that the case plan include a description of how the child’s needs will be met while in foster care)

[H.R. 1892](#), 115 Cong. §§50711, et seq. (2018), [Family First Prevention Services Act](#) to amend 42 U.S.C.A. § 671 et seq. [hereinafter H.R. 1892, FFPSA] §50741, to amend 42 U.S.C.A. § 672 (limiting IV-E reimbursement for child care institutions (group care) to 2 weeks with limited exceptions, such as QRTPs and a few select settings; QRTPs need to follow requirements related to treatment and services provided; QRTPs must use a validated assessment tool within 30 days

to determine if the youth’s needs can be met in a family-based setting)

[42 U.S.C.A. § 12101](#) et seq., The Americans with Disabilities Act (prohibiting discrimination based on disability and requiring accommodations so that services can be provided in the most integrative setting)

[42 U.S.C.A. § 2000d](#) (prohibiting discrimination based on race, color or national origin in any program or activity receiving federal funding)

[45 C.F.R. § 84.52](#) (prohibiting discrimination based on disability in the provision of health, welfare, and other social service programs or activities that receive federal funding)

[45 C.F.R. § 75.300\(c\)](#) (requiring that individuals shall not be discriminated against in the administration of HHS programs and services based on non-merit factors such as age, disability, sex, race, color, national origin, religion, gender identity, or sexual orientation)

CA State Law Support

[WIC § 11402\(g\)](#)

(permitting AFDC-FC funding for a short-term residential therapeutic program (STRTP))

[WIC § 361.2\(9\)](#)

(requiring that the case plan of a child placed in an STRTP indicate that the placement is for treatment purposes, document the need for, nature of, and anticipated duration of treatment, and include a plan for transition to a less-restrictive setting)

Actions To Take

► Authorities & Support

What are the specific needs of the child that require group care?



AUTHORITIES & SUPPORT

[WIC § 11462.01\(b\)](#)

(listing criteria that must be met before an STRTP may accept a child for placement)

[WIC § 16501.1\(d\)](#)

(requiring that the case plan for a child placed in an STRTP indicate the child's needs that necessitate the placement and the plan and timeline for transition to a less-restrictive environment)

[WIC § 16501.1\(g\)\(2\)](#)

(requiring that a child's case plan specify goals and the appropriateness of services in meeting goals)

[MPP 31-206.3 CASE PLAN DOCUMENTATION](#)

(discussing case plan requirements for children placed out of home, including documentation of child's needs)

► **Actions To Take**

Authorities & Support

Has a less restrictive environment been attempted or recommended? Can the identified treatment or special needs be met in a family setting? If not, why not?

Principle

If the child's needs can be met in a family based setting that is available or could be developed, group care is not appropriate. Before placement in group care can even be considered, less restrictive settings must be attempted.



ACTIONS TO TAKE

Out of Court

Determine:

- The treatment and service array in your community:
 - What is available through the child welfare system?
 - What treatment services can be funded by Medicaid or state funds?
 - What can be provided through the educational system?
 - Are there recreational and other age-appropriate activities that could support a community based placement?
- The treatment and services that are available or exist in other communities.
 - Research what exists in other communities that could be replicated.
 - Research and consult with experts, including advocates at the local [Protection and Advocacy Agency](#), to determine what the ideal placement and service array would be for the youth and what services are available.

In Court

- Request a hearing to determine what services have been provided to keep the youth in the community.
 - Ask that the court find that the child is not in the least restrictive setting and request that the court direct the child welfare agency to place the child in a less restrictive setting or to develop such a setting or service.
 - Request or ask that the court order the provision of an identified service.
- If the child is to be placed in a QRTP, make sure that the required information has been provided to the court to justify the placement.
 - Request that the judge find that placement is not justified if the information provided does not demonstrate that required services cannot be provided in a family setting.

Has a less restrictive environment been attempted or recommended? Can the identified treatment or special needs be met in a family setting? If not, why not?



AUTHORITIES & SUPPORT

Social Science Research & Expert Opinion

“A child or adolescent with mental illness should be treated in the safest and least restrictive environment and needed services should be ‘wrapped-around’ to provide more intensive home or community-based services.

”

American Academy of Child & Adolescent Psychiatry, *Principles of Care for Treatment of Children and Adolescents with Mental Illnesses in Residential Treatment Centers* (June 2010).

CA State Law Support

[WIC § 16501.1\(d\)](#)

(requiring that placement decisions be based on the least-restrictive family setting that meets the child’s needs and listing placement types in priority order)

[MPP 31-420.2 FOSTER CARE PLACEMENT](#)

(listing a priority order for placement that prioritizes family-based placements)

Federal Law Support

[42 U.S.C.A. § 675\(5\)\(A\)](#)

(requiring that the case review system ensure that the case plan for the youth provides the least restrictive, most family-like setting where the youth’s needs can be met)

[H.R. 1892](#), FFPSA, §50741, to amend 42 U.S.C.A. §672

(limiting federal funding for placement in group care and requirements for placing and keeping a youth at a QRTP)

► **Actions To Take**

Authorities & Support

Does the proposed group care facility have all necessary licenses and certifications to provide the treatment services the child needs?

Principle

Youth should only be placed in facilities that are properly licensed and abide by applicable laws, regulations, and licensing requirements.



ACTIONS TO TAKE

Out of Court

Determine whether:

- The facility is properly licensed, including any requirements for out of state placements.
- There is a history of licensing or certification violations or a history of complaints. If the facility is out of state, review records in both the placing state and the state in which the facility is located.
- The facility has a grievance policy.
- The facility is being considered a QRTP and whether it has the appropriate credentials.
- The state Protection and Agency has any information on the placement.
- A visit to the facility can be scheduled.
- There is a grievance policy.

In Court

- Present evidence on and challenge the appropriateness of a placement if it is not properly licensed or has violations.
- Ask that the court not allow your client to be placed at the facility.

Does the proposed group care facility have all necessary licenses and certifications to provide the treatment services the child needs?



AUTHORITIES & SUPPORT

Federal Law Support

[H.R. 1892](#), FFPESA, §50741 (requiring as a condition of federal funding receipt that QRTPs meet certain requirements for service delivery, such as:

- being licensed and nationally accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation, or others approved by HHS;
- having a trauma informed treatment model;
- having a registered or licensed nursing staff;
- being inclusive of family members in treatment plans and programs; and
- providing aftercare support for at least six months after discharge)

CA State Law Support

[42 U.S.C.A. 671 \(12\)](#)

(requiring that the IV-E agency have in place policies for granting a fair hearing related to benefits and requirements of Title IV-E)

[Health and Safety Code § 1503.5](#)

(requiring that congregate care facilities be licensed)

[Health and Safety Code § 1562.01\(b\), \(c\)](#)

(requiring STRTPs to have national accreditation and a mental health program approval that includes a Medi-Cal mental health certification)

[WIC § 11402](#)

(requiring that facilities be licensed in order to receive AFDC-FC payments)

[Family Code § 7911.1](#)

(requiring that group care facilities outside of California meet California licensing standards)

[WIC § 16001.9](#)

(listing the rights of foster youth, which congregate care facilities must comply with)

[STRTP Interim Licensing Standards](#)

(listing licensing standards with which STRTPs must comply)

[MPP 31-401.5](#)

(requiring that out-of-state placements comply with California foster youth personal rights)

[CCL website and office](#)

(listing licensing information, including complaints, citations, and reports, for California congregate care facilities)

► **Actions To Take**

Authorities & Support

Does the proposed group care facility have the capacity to meet the specific treatment needs of the child?

Principle

If placement in a group facility is due to treatment needs, the facility must have the capacity and expertise to meet the particular treatment needs of the child.



ACTIONS TO TAKE

Out of Court

Determine:

- The types of issues the facility promises to address (e.g., substance abuse, aggressive behavior, sexual problems) and the specific services the facility offers.
- Whether the facility is able to address the identified needs of the child based on the programs and treatment modalities it uses.
- Whether the facility has the staff (both professional and direct care staff) needed to meet the child's specific needs.
- Whether the treatment staff are credentialed.
- Whether the services that treatment staff will provide fall within their scope of practice.
- The facility's daily and weekly schedule for the child.
- The experience of youth recently in the facility by asking youth and their attorneys and be reviewing licensing violations or records of complaints or grievances.

In Court

- Request a hearing to demonstrate that the facility cannot meet your client's treatment needs. Be prepared to present evidence based on the information gathered from the facility, colleagues, or experts to show that there is not a good match between the child's identified treatment needs and what the facility can provide.

Does the proposed group care facility have the capacity to meet the specific treatment needs of the child?



AUTHORITIES & SUPPORT

Social Science Research & Expert Opinion

“ In general, however, residential treatment is not effective for many children.

”

Magellan Health Services Children’s Services Task Force, *Perspectives on Residential and Community-Based Treatment for Youth and Families*, Magellan Health Services Children’s Services Task Force (2008) (reviewing literature demonstrating limited effectiveness of residential treatment).

American Academy of Child & Adolescent Psychiatry, *Principles of Care for Treatment of Children and Adolescents with Mental Illnesses in Residential Treatment Centers* (June 2010).

Bazelon Center for Mental Health Law, *Fact Sheet: Children in Residential Treatment Centers* (Jan. 2009).

CA State Law Support

[WIC §361.2\(9\)](#)

(requiring that the case plan of a child placed in an STRTP indicate that the placement is for treatment purposes, document the need for, nature of, and anticipated duration of treatment, and include a plan for transition to a less-restrictive setting)

[Health and Safety Code § 1562.01\(d\)\(2\)\(C\)\(iii\)](#)

(requiring that STRTPs create needs and service plans that describe the services provided to meet children’s treatment needs)

[MPP 31-420.15 FOSTER CARE PLACEMENT](#)

(requiring that the caregiver’s ability to meet the child’s needs be considered prior to placement)

[22 CCR 87068.2 \(STRTP Interim Licensing Standards\)](#)

(requiring STRTP to develop a needs and services plan that documents the services necessary to meet the child’s needs and the facility’s ability to provide those services)

Federal Law Support

[42 U.S.C.A. § 675\(1\)\(B\)](#)

(requiring that the case plan include a description of how the child’s needs will be met while in placement)

[H.R. 1892, FFPSA, §50741](#) (Requirements for QRTPs cited in Q 4)

► **Actions To Take**

Authorities & Support

Is the facility able to meet any identified special need of the child (for example, related to language, sexual orientation, or disability)?

Principle

For the facility to be appropriate, it must have the capacity to meet any of the child's special needs including the treatment need that is the rationale for placement.



ACTIONS TO TAKE

Out of Court

Determine whether:

- The facility is able to meet the child's special needs in addition to his or her treatment needs (e.g., if the child has a physical disability in addition to a mental health treatment need).
- The facility has the staff (both professional and direct care staff) needed to meet the child's specific needs and are the treatment staff credentialed.
- The facility is trained and can meet any needs related to de-escalation and behavior management, whether the staff is trained to meet those needs, and whether there a plan in place to make sure the appropriate techniques are used.
- The facility is prepared to meet the needs of and respect the identity of a youth related to sexual orientation or gender identity or expression and provide gender-affirming services.
- The facility is prepared to work with both the child and the family in their primary language if English is not their first language.

In Court

- Request a hearing to demonstrate that the proposed placement does not meet the child's needs. Be prepared to present evidence or experts who can show:
 - the child has special needs;
 - the facility cannot meet those needs or staff is not trained to meet the child's needs; and
 - how not meeting the child's special needs will be detrimental to the child's well-being and treatment.
- Be prepared to present evidence as to the harm that can be caused by placement in a facility that does not respect the youth's sexual orientation, gender orientation or expression or does not provide appropriate supportive services.
- Be prepared to raise any appropriate claims related to discrimination based on disability, gender, sexual orientation.

Actions To Take

► Authorities & Support

Is the facility able to meet any identified special need of the child (for example, related to language, sexual orientation, or disability)?



AUTHORITIES & SUPPORT

Social Science Research & Expert Opinion

“ It is important to note that it is often in the child’s best interest to receive services in the community, rather than in a setting where children are confined such as locked treatment facilities or juvenile hall. Institutional settings may trigger the child by confirming what the trafficker has told him or her: that he or she will be treated as a criminal or as mentally ill. This confinement may add additional barriers to engagement.

”

Child Welfare Council CSEC Action Team, *Improving California’s Multi-System Response to Commercially Sexually Exploited Children: Resources for Counties*, (2015).

Marksamer, Jody, *A Place of Respect: A Guide for Group Care Facilities Serving Transgender and Gender Non-Conforming Youth* (2011).

American Association of Children’s Residential Centers, *Redefining Residential: Ensuring Competent Residential Interventions for Youth with Diverse Gender and Sexual Identities and Expressions* (Oct. 17, 2014).

Child Welfare League of America, *CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-Home Care* (2006).

Suleiman, L.P, *Beyond Cultural Competence: Language Access and Latino Civil Rights*, Child Welfare League of America (2003).

National Association for the Deaf, *Position Statement on Quality Foster Care Services Continuum for Deaf Children*.

Southern Area Consortium of Human Services, *Literature Review: Commercially Sexually Exploited Children* (Feb. 2014).

Federal Law Support

42 U.S.C.A. § 12101 et seq., The Americans with Disabilities Act (prohibiting discrimination based on disability and requiring accommodations so that services can be provided in the most integrative setting)

42 U.S.C.A. § 2000d (prohibiting discrimination based on race, color or national origin in any program or activity receiving federal funding)

45 C.F.R. § 84.52 (prohibiting discrimination based on disability in the provision of health, welfare, and other social service programs or activities that receive federal funding)

45 C.F.R. § 75.300(c) (requiring that individuals shall not be discriminated against in the administration of HHS programs and services based on non-merit factors such as age, disability, sex, race, color, national origin, religion, gender identity, or sexual orientation)

42 U.S.C.A. § 671(a)(10) (requiring that state ensure that normalcy be provided to youth placed in family foster care and child care institutions and that these requirements are built into licensing standards)

Is the facility able to meet any identified special need of the child (for example, related to language, sexual orientation, or disability)?



AUTHORITIES & SUPPORT

CA State Law Support

[WIC § 16501.1\(d\)](#)

(requiring that the placement decision be based on the least restrictive family setting that promotes normal childhood experiences and meets the child's individual needs)

[WIC § 16001.9](#)

(listing foster youth rights, including anti-discrimination provision and right to be placed according to gender identity)

[MPP 31-205 ASSESSMENT DOCUMENTATION](#)

(requiring that social, cultural, physical factors, and whether the minor is a parent be considered in making placement decisions)

[MPP 31-420 FOSTER CARE PLACEMENT](#)

(requiring that placement decisions consider children's age, sex, and cultural background, anticipated special needs of the child, and the caregiver's ability to meet the child's needs)

[MPP 31-405.21 SOCIAL WORKER RESPONSIBILITIES FOR PLACEMENT](#)

(requiring social workers to assist children in maintaining cultural, racial, and ethnic identity)

► **Actions To Take**

Authorities & Support

How will the facility determine whether the services are effective in meeting the needs of the child?

Principle

If placement is based on treatment needs, there must be clear and precise benchmarks and ways to measure progress.



ACTIONS TO TAKE

Out of Court

Determine whether the treatment plan is appropriate by identifying the following:

- The goals.
- The treatment provided.
- The benchmarks to be achieved to show progress is being made.
- How often is progress reviewed.
- What must occur for the youth to leave the placement.
- How the youth and family have been involved in setting goals.
- Be aware of key timelines for approvals of placements—such as the QRTP and other timelines.

Take action to:

- Participate in treatment plan meetings and challenge elements that are not clear or accurate.
- File an administrative appeal, fair hearing, or grievance related to plans that are not acceptable or contain terms that are not appropriate.
- Ask for a case planning meeting or team conference to address whether progress being made or how goals are set.

In Court

- Ask for hearing on the disposition if progress is not being made in treatment or the facility is not the right match for the youth. Be prepared to:
 - present evidence on the child's needs and the type of treatment that is being provided;
 - raise any key timelines related to continued authorization or justification for continued placement; and
 - raise objections to findings that are made related to the justification of a continued group care placement.
- If the child is in a QRTP, make sure all the required findings are being made to justify continued placement and challenge placement and ask for a discharge when the appropriate findings are not made.

How will the facility determine whether the services are effective in meeting the needs of the child?



AUTHORITIES & SUPPORT

Federal Law Support

[H.R. 1892](#), FFPSA, §50741 (QRTP requirements related to engaging the family in treatment and planning; requirement of an assessment by a qualified individual within 30 days and completed in conjunction with the permanency team and family; the agency must document how the team and family were identified and included in planning; requirement that the court approve an assessment and a QRTP placement within 60 days of placement; for continued placement at a QRTP, requiring that at every permanency hearing that the agency present to the court:

- the ongoing assessment that the child's needs continue to be best met in a QRTP
- the specific treatment or service needs that will be met by the QRTP and the length of time the child is expected to need those treatment and services.
- the efforts made to prepare the child to exit care or to be placed in a foster family home; for continued placement in a QRTP for 12 consecutive months or 18 nonconsecutive months, or more than 6 months for a youth under age 13, submission to HHS of the most recent evidence and documentation supporting this placement with a signed approval by the head of the state agency)

[42 U.S.C.A. § 675\(5\)\(C\)](#)

(requiring that youth who are age 14 or older are consulted in the development of their permanency plan and that they are given the opportunity to include up to two members who may serve as advocates, with one being an advocate on normalcy)

CA State Law Support

[WIC § 361.2\(9\)](#)

(requiring that a case plan for a child placed in an STRTP include a plan and timeline for placement in a less-restrictive environment)

[WIC § 16501.1\(g\)\(13\)](#)

(requiring that children have a meaningful opportunity to participate in the case plan and state a preference for placement)

[Health and Safety Code § 1562.01\(d\)\(2\)\(c\)\(iii\)](#)

(requiring that STRTPs have procedures for periodic updating of needs and services plans)

[22 CCR 87022\(c\)\(12\) \(STRTP Interim Licensing Standards\)](#)

(requiring that an STRTP have policies and procedures for transition of children when services are no longer needed or are ineffective)

[22 CCR 87022.1\(8\) \(STRTP Interim Licensing Standards\)](#)

(requiring that an STRTP's program statement include procedures for periodic updating of needs and services plans)

[22 CCR 87068.2 \(STRTP Interim Licensing Standards\)](#)

(requiring STRTP to develop a needs and services plan that documents the services necessary to meet the child's needs and the facility's ability to provide those services)

► **Actions To Take**

Authorities & Support

How often and through what process will the need for group care placement be reviewed?

Principle

If a child is placed in group care, the time there should be short and related to specific treatment goals. Reviews of progress should be frequent and consider concrete and specific information.



ACTIONS TO TAKE

Out of Court

- Determine the benchmarks for progress and time line and forum for review of progress from admission.
- Ensure that everyone is clear on what needs to happen to demonstrate progress and that those goals are developmentally appropriate and realistic.
- Challenge goals that are not specific enough, not realistic for the youth, or are not appropriate for other reasons.
- Take part in meetings and forums where progress is reviewed.
- File a grievance or ask for a fair hearing to challenge how services are being delivered to the youth, the terms of the treatment plan, or if treatment is not appropriate.

In Court

- Ask for a hearing on the disposition if progress is not being made in treatment, the facility is not the correct match, or the youth has been in the setting for a long period of time. Be prepared to:
 - present evidence on the child's needs and the type of treatment that is being provided
 - raise any key timelines related to continued authorization or justification for continued placement
 - raise whether the permanency planning team, including the youth and family, was part of the review and assessment of continued placement
 - challenge any evidence presented by the agency that does not support the findings the court must make to authorize continued placement in a QRTP and request discharge from the setting.

How often and through what process will the need for group care placement be reviewed?



AUTHORITIES & SUPPORT

Social Science Research & Expert Opinion

“ There is growing evidence that most of the gains in residential treatment are made in the first six months. For example, a study cited in Hair (2005), reported that a majority of measures that assess behavioral and emotional problems including delinquency-related behavior demonstrated progress during the first six months of treatment, whereas no additional gains were noted subsequently. ”

Magellan Health Services Children’s Services Task Force, *Perspectives on Residential and Community-Based Treatment for Youth and Families* (2008).

Federal Law Support

H.R. 1892, FFPSA, §50741, see details above in Q 8.

CA State Law Support

WIC § 361.2(e)(9)

(requiring documentation and county director or deputy director approval of STRTP placements longer than 6 months)

WIC § 11462.01(h)(3)(B)

(describing procedures upon a determination by an interagency placement committee that a placement is inappropriate)

WIC § 16010.8

(stating legislative intent that no child be placed in group care for longer than one year)

WIC § 16501.1(d)(2)

(requiring that a case plan for a child placed in an STRTP include a plan and timeline for transition to a less restrictive environment that is reviewed and updated at least semiannually)

WIC § 16501.1(g)(1), (17)

(requiring that the case plan be developed considering the recommendations of the child and family team and in consultation with the youth)

22 CCR 87022(c)(12) (STRTP Interim Licensing Standards)

(requiring that an STRTP have policies and procedures for transition of children when services are no longer needed or are ineffective)

22 CCR 87068.2 (STRTP Interim Licensing Standards)

(requiring STRTP to give child and child and family team the opportunity to participate in and for the child to approve the needs and services plan)

► **Actions To Take**

Authorities & Support

What is the plan for including the child's family, caregiver, and other people who are important to the child in treatment and providing ongoing communication and visitation?

Principle

Maintaining a strong connection between the child, the family, and the community is integral to successful treatment and progress to a less restrictive setting. Caregivers and family must be part of the treatment process so that they are able to learn the skills needed to support the youth in the home.



ACTIONS TO TAKE

Out of Court

Determine the following:

- How will the child maintain relationships with parents, siblings, other family members, and other people who are important to him or her.
- How far the facility is from the family's home and what supports around transportation the facility or the agency will provide to enable family participation in treatment.
- The facility's visitation policies and if there are any limitations.
- The facility's policies on phone calls, email, mail, etc.

Ensure that:

- The case plan includes plans for visitation and communication with family, including considerations around transportation.
- The family is included in treatment and that family receives the skills and support they need to support the youth.
- Family visitation and involvement includes siblings and kin.

In Court

- Ask that visitation, communication and involvement in treatment by family be court ordered if it is not being provided.
- If an out-of-state facility is being considered, be prepared to make a record regarding the impact on family visitation, communication, and reasonable efforts.
- Request that the court order the agency to provide financial/logistical support for family visits.

What is the plan for including the child's family, caregiver, and other people who are important to the child in treatment and providing ongoing communication and visitation?



AUTHORITIES & SUPPORT

Social Science Research & Expert Opinion

“ When siblings cannot be placed together, facilitating regular contact is critical to maintaining these relationships. Regular contact may even affect permanency outcomes. Findings from the Child and Family Services Reviews conducted in all States found a significant association between visiting with parents and siblings and both permanency and well-being outcomes. ”

Child Welfare Information Gateway, *Sibling Issues in Foster Care and Adoption* (Jan. 2013).

Magellan Health Services Children's Services Task Force, *Perspectives on Residential and Community-Based Treatment for Youth and Families* (2008).

Building Bridges Initiative, *Best Practices for Residential Interventions for Youth and Their Families* (Feb. 2017).

Federal Law Support

Santosky v. Kramer, 455 U.S. 745 (1982) (parents have a fundamental liberty interest in the care, control and custody of their children)

42 U.S.C.A. § 675(5)(A)

(requiring that the court ensure that the child has a case plan designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child)

42 U.S.C.A. § 671(a)(31)

(requiring as part of the state's IV-E plan that reasonable efforts be made to place siblings together and to provide for frequent visitation when joint placement is at odds with the children's safety)

42 U.S.C.A. § 675(5)(C)

(requiring that youth who are age 14 or older are consulted

in the development of their permanency plan and that they are given the opportunity to include up to two members who may serve as advocates, with one being an advocate on normalcy)

H.R. 1892, FFPSA, §50741 (QRTP requirements related to engaging the family in treatment and planning; requiring an assessment by a qualified individual within 30 days and completed in conjunction with the permanency team and family; the agency must document how the team and family were identified and included in planning and treatment; requirement to provide aftercare for 6 months after discharge)

CA State Law Support

WIC § 16001.9

(listing foster youth rights, including the right to contact family members and visit siblings)

WIC § 16501(a)(4)

(defining child and family team and its activities)

WIC § 16501.1(g)(6)

(requiring that the case plan include provisions for the maintenance of sibling relationships)

WIC § 16501.1(j)

(requiring that case plans include actions necessary to maintain relationships with individuals important to the child when the child has been in out-of-home placement for longer than six months)

WIC §16002

(describing requirements for the maintenance of sibling relationships)

22 CCR 87068.2(b) (STRTP Interim Licensing Standards)

(requiring that an STRTP develop needs and services plans that discuss family visitation and the provision of services to families)

► **Actions To Take**

Authorities & Support

Will the child's educational needs be met in accordance with the law while placed in group care?

Principle

A child's educational needs must continue to be met while in group care. There are multiple laws that must be followed that support consistent and appropriate educational services and opportunities. These must be followed and cannot be pre-empted by treatment objectives.



ACTIONS TO TAKE

Out of Court

- Make sure treatment decisions do not usurp or dictate decisions about education. These are separate decisions that should be made on their own terms.
- Ensure that school stability is maintained and request any needed transportation.
- Determine if the child has or needs an educational decision maker.
- Support the parent or decision maker in understanding the educational decisions that must be made.
- Avoid on-grounds schools and contact your local [Protection and Advocacy Agency](#) if you believe your client is being put in the on-grounds school based solely on his or her placement in group care and not their educational needs and take any recommended remedial actions.
- If the school placement is changed based on an IEP, ensure that all processes have been followed and assist the educational decision maker in challenging any inappropriate actions.
- If there is a school move, keep graduation planning and credit transfer and accrual in mind.
- Ensure opportunities for school-based activities are provided and include these activities in the case plan.

- If the child has an IEP, make sure it is implemented correctly.

In Court

- Enforce laws requiring school stability and immediate enrollment in the community school if maintaining school stability is not in the child's best interest.
- Request that transportation be arranged and provided to maintain the child in his or her school of origin.
- Make sure an appropriate and quick determination is been made about school stability.
- Ask that an educational decision maker be appointed if the youth does not have one and needs one.
- Ask the court to order enforcement of the Strengthening Families Act normalcy provisions and provide access to activities if they are not being provided.
- Use any available joinder provisions of the law to bring the school district into court to meet the child's educational needs if they are not cooperating.

Will the child's educational needs be met in accordance with the law while placed in group care?



AUTHORITIES & SUPPORT

Social Science Research & Expert Opinion

“ School changes are a significant problem for children and youth in foster care... School mobility has negative effects on academic achievement, including lower scores on standardized tests and greater risk of dropping out...In a national study of 1,087 foster care alumni, youth who had even one fewer change in living arrangement per year were almost twice as likely to graduate from high school before leaving foster care. ”

National Working Group on Foster Care and Education, *Fostering Success in Education: National Factsheet on the Educational Outcomes of Children in Foster Care* (Apr. 2018).

Courtney, M., Roderick, M., Smithgall, C., Gladden, R. & Nagaoka, J, *Issue Brief: The Educational Status of Foster Children* (Dec. 2004).

U.S. Department of Education and U. S. Department of Health and Human Services, *Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care* (2016).

Arley Styer & Education Law Center, *Moving the Dial: A Report on Education Experiences of Children in Pennsylvania Residential Treatment Facilities* (March 2011) (examining the poor educational experiences of youth attending on-grounds schools at group care facilities).

42 U.S.C.A. § 12101 et seq., The Americans with Disabilities Act (prohibiting discrimination based on disability and requiring accommodations so that services can be provided in the most integrative setting.)

45 C.F.R. § 84.52

(prohibiting discrimination based on disability in the provision of health, welfare, and other social service programs or activities that receive federal funding)

CA State Law Support

WIC § 16501.1(d)

(requiring that placement decisions consider proximity to child's school)

WIC § 16501.1(d)(4)

(considering continuation of group care placement for completion of high school)

WIC § 16501.1(g)(8)

(requiring case plan to ensure educational stability)

WIC § 362(b)(1)

(permitting court to join agencies, including educational agencies, and order services)

MPP 31-405.25 SOCIAL WORKER RESPONSIBILITIES FOR PLACEMENT

(requiring arrangements for and monitoring of educational progress of a child in placement)

Federal Law Support

42 U.S.C.A. § 675(1)(G)

(Requiring that the case plan include a plan for educational stability or immediate enrollment.)

► Actions To Take

Authorities & Support

**How will the child's need for routine and preventive health care be met?
Does the child have any special medical needs? How will those needs be met?****Principle**

Young people will continue to have medical needs, including routine, acute, and ongoing needs, and facilities must be prepared to meet those needs.

**ACTIONS TO TAKE****Out of Court****Determine whether:**

- The child has any chronic conditions or ongoing health care needs and whether the facility has a plan and the capacity to meet those needs.
- The facility has a plan for addressing acute or emergency medical issues.
- The facility has a plan for providing routine medical care, including check-ups, reproductive health, dental, and vision care.

In Court

- Have the court order any needed treatment or care.
- Raise the lack of capacity to provide adequate care as a way to prevent placement or show the placement is not appropriate and cannot meet the child's needs.

Actions To Take

► Authorities & Support

How will the child's need for routine and preventive health care be met? Does the child have any special medical needs? How will those needs be met?



AUTHORITIES & SUPPORT

Federal Law Support

[42 U.S.C.A. § 675\(1\)\(B\)](#)

(requiring that the case plan include a description of how the child's needs will be met while in foster care)

[42 USCA 675 \(1\)\(C\)](#)

(requiring that the case plan include the child's health records, including the known medical issues, medications and related information)

[H.R. 1892, FFPSA, §50741](#)

(A QRTP must have a trauma-informed treatment model and must have registered or licensed nursing staff and other licensed clinical staff who can provide care on-site consistent with the treatment model and be available 24 hours and 7 days a week)

CA State Law Support

[MPP 31-206.36 CASE PLAN DOCUMENTATION](#)

(requiring that case plan ensure that child will receive medical and dental care, including preventive care)

[MPP 31-405.24 SOCIAL WORKER RESPONSIBILITIES FOR PLACEMENT](#)

(requiring that social worker ensure that children in placement receive medical, dental, and preventive care)

► **Actions To Take**

Authorities & Support

What age-appropriate activities and what experiences for developing adult living skills will the child be able to participate in while at the placement?

Principle

Healthy child and adolescent development requires that youth have access to age- and developmentally appropriate activities and be given opportunities to express and explore their talents and identities.



ACTIONS TO TAKE

Out of Court

Determine whether:

- The facility provides access to activities in the community and provides activities on site.
- The facility is in compliance with the normalcy provisions of the Strengthening Families Act.
- The facility has rules that prohibit or limit participation in activities.

Identify:

- Activities, hobbies, and interests that are important to the child and ensure that activities are included in the case plan, that the child will have access and financial support to participate in these activities, and that they are not used as punishment or reward.

Advocate

- For inclusion of extracurricular activities in the IEP if the youth has an IEP.

In Court

- Ask that the court order that the agency and facility facilitate participation in activities and provide any support, like transportation or funds, needed for participation.
- Ask that the court invalidate facility rules that conflict with the Strengthening Families Act's normalcy provisions.

What age-appropriate activities and what experiences for developing adult living skills will the child be able to participate in while at the placement?



AUTHORITIES & SUPPORT

Social Science Research & Expert Opinion

“ Youth who are placed in group care through either the juvenile justice or foster care systems face additional barriers to extracurricular participation. The structure, staffing, and transportation resources of group care facilities are often not set up to accommodate youth participation in extracurriculars – particularly where those extracurriculars occur outside of the facility. ”

Annie E. Casey Foundation, Toolkit: *Advancing SFA Normalcy Provisions* (2017).

Jim Casey Youth Opportunities Initiative, Annie E. Casey Foundation, *What Young People Need to Thrive: Leveraging the Strengthening Families Act to Promote Normalcy* (2015).

Pokempner, J., Mordecai, K., Rosado, L., Subrahmanyam, D., Juvenile Law Center, *Promoting Normalcy for Children and Youth in Foster Care* (May 2015).

National Collaboration for Youth, *The Impact of Youth Development Programs on Student Academic Achievement* (Mar. 2011).

Weinstein, M.B., Fuller, K., Mulrooney, T., Koch, G., National Recreation and Parks Association, *The Benefits of Recreational Programming on Juvenile Crime Reduction: A Review of Literature and Data* (Sept. 2014).

Youth Law Center, *Closing the Extracurriculars Gap: Prioritizing Extracurricular Activities as a Key Intervention for Children and Youth in Foster Care and Juvenile Justice* (Jan. 2019).

Federal Law Support

42 U.S.C.A. § 671(a)(10)

(requiring that practice and licensing standards for family foster care and child care institutions include

implementation of the reasonable and prudent parent standard and supporting the participation of youth in age appropriate activities)

42 U.S.C.A. § 675(5)(B) & 675a(a)(3)

(requiring that the court ensure at each permanency hearing for a youth with the permanency plan of APPLA that the reasonable and prudent parent standard is being followed and that the child has ongoing opportunities to engage in age appropriate activities)

42 U.S.C.A. § 675(5)(C)

(requiring that youth who are age 14 or older are consulted in the development of their permanency plan and that they are given the opportunity to include in planning up two members who may serve as advocates, with one being an advocate on participation in age-appropriate activities)

CA State Law Support

WIC § 16001.9

(listing foster youth rights, including rights to participate in extracurricular activities, to have social contacts, and to have access to independent living and educational information)

WIC § 16501.1(d)

(requiring that placement decisions consider normal childhood experiences)

22 CCR 87067 (STRTP Interim Licensing Standards)

(requiring STRTPs to apply the reasonable and prudent parent standard)

22 CCR 87072 (STRTP Interim Licensing Standards)

(requiring STRTPs to respect foster children’s personal rights, including the right to participate in age- and developmentally appropriate activities)

► **Actions To Take**

Authorities & Support

What is the plan for transitioning the child out of the facility to a family based setting?

Principle

Any stay in group care should be short and closely related to treatment objectives. Planning for discharge must begin from day one and should include detailed plans to ensure that the youth has the services and supports needed to flourish in a family based setting.



ACTIONS TO TAKE

Out of Court

Determine the following:

- The criteria that will be used to determine whether the child is ready to return to family care and who will be involved in making that determination.
- Where the child will live when he or she leaves group care and what supports will be needed to support the youth and family.
- The logistics and timeline for planning, including how long will it take to get services in place and what people and systems need to be involved in planning.

Take action:

- To attend transition planning meetings and ensure the youth's team, including family and kin, as well as needed agencies are included.
- To ensure an appropriate transition plan is developed with clear time lines and action steps.

In Court

- Ask the court to order the child welfare agency and/or treatment provider to present the transition plan to the court if there are concerns about its quality or the finalization of the plan.
- Ask the court to order the participation of needed agencies, such as the Medicaid agency, the intellectual disabilities agencies, or school system, in planning if that is not occurring. Be prepared to file a motion to join the needed agency in the child welfare proceeding if their participation is needed for transition planning and they are not cooperating.
- Ask the court to order the provision of identified services needed to transition the youth, including aftercare.

What is the plan for transitioning the child out of the facility to a family based setting?



AUTHORITIES & SUPPORT

Social Science Research & Expert Opinion

“ The more successful residential treatment programs begin planning discharge at the time of admission. They determine what the youth needs for successful discharge and focus on eliminating barriers and building necessary supports.



Magellan Health Services Children’s Services Task Force, *Perspectives on Residential and Community-Based Treatment for Youth and Families* (2008).

Federal Law Support

[42 U.S.C.A. § 675\(1\)\(A\) & \(B\)](#)

(requiring that the case plan include a description of the type of home or institution in which a child is to be placed, including a discussion of the safety and appropriateness of the placement and that the child’s needs will be met while in foster care)

[42 U.S.C.A. § 675\(5\)\(A\)](#)

(requiring that the court ensure that the child has a case plan designed to achieve placement in a safe setting that is the least restrictive, most family-like, and most appropriate setting available and in close proximity to the parent’s home, consistent with the best interests and special needs of the child)

[H.R. 1892](#), FFPFA, §50741 (requiring that if a child is placed in a QRTP, the QRTP must document how the child’s family is integrated into the child’s treatment, including discharge planning, provide discharge planning and aftercare for at least 6 months postdischarge.

CA State Law Support

[WIC § 16501.1\(d\)\(2\)](#)

(requiring a plan and timeline for transition to a less restrictive environment when a child is placed in an STRTP)

[WIC § 362\(b\)\(1\)](#)

(permitting court to join agencies, including educational agencies, and order services)