180-1
Under the provisions of the Interstate Compact on the Placement of Children, Article 5(a), the sending agency shall retain jurisdiction over the child, and shall continue to have financial responsibility for the support and maintenance of the child during the period of the placement. (Family Code §7901)

180-2
Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article 5 thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of other state laws also may be invoked. (Family Code §7902)

180-3
When a child in FC reaches age 18, the child shall receive continued benefits until age 19, provided all the following conditions are met. (a) The FC child was attending high school or a vocational-technical training program on a full-time basis prior to reaching age 18. (b) The child continues to meet FC eligibility requirements of this section; reside in FC; and attend on a full-time basis either a high school or if he/she has not completed high school, a vocational technical training program which cannot result in a college degree as specified in §42-101.2 provided he/she is reasonably expected to complete either program before reaching age 19. (c) The child and the placement agency have signed a mutual agreement which documents the continued need for FC placement. (§45-201.111, revised effective November 26, 1997)

Full-time attendance must be defined and verified by the school. (§45-201.111(b)(3), effective November 26, 1997)

180-4
In order to be eligible for AFDC-FC benefits, a child must meet the age requirements of §42-100 et seq.; the property requirements in §42-200 et seq.; the residence requirements in §42-400 et seq.; the citizenship and alienage requirements in §42-430 et seq.; the social security enumeration requirements in §40-105.2; the income requirements in §44-100 et seq.; the child support requirements in §§43-200, 43-201.2, and 43-203; and the application requirements in §40-100 et seq. (§§45-201.1-.5)

180-4A
Federal law has provided, since December 14, 1999, that each child can have up to $10,000 in property. While state regulations (§45-201.12) have not been amended as of November 1, 2002, the CDSS has issued instructions to counties as follows: "Accordingly, for State and federal AFDC-FC, any child may now retain up to $10,000 in property. For purposes of determining whether the child would have been eligible for AFDC in the petition month as required by ... §45-202.33, the family may also have up to $10,000 in property and still qualify for AFDC. The $10,000 is in addition to the $1,500 vehicle limit. This increased property limit is effective December 14, 1999." (All-County Letter No. 02-45, June 25, 2002 implementing 42 United States Code 672(a))

180-4B
On December 14, 1999, federal law, as contained in the United States Code (USC), was amended as follows:

> "In determining whether a child would have received aid under a State plan approved under section 602 of this title (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 602(a)(7)(B) of this title, as so in effect) have a combined value of not more than $10,000 shall be considered to be a child whose resources have a combined value of not more than $1,000 (or such lower amount as the State may determine for purposes of such section 602(a)(7)(B) of this title)."

(42 USC §672(a))

180-4C REVISED 5/05
State law was amended effective January 1, 2002 to provide that in addition to the personal property permitted by other provisions, an FC child may retain resources with a combined value of not more than $10,000, consistent with 42 United States Codes §672(a). Up to $10,000 in cash savings is exempt for purposes of determining eligibility and grant amount. (§45-201.12,)

180-5
When a caretaker relative receives AFDC-FC for the FC children, that relative may be eligible to receive AFDC-FG for himself/herself.

If that caretaker relative chooses to receive AFDC-FG, and then loses AFDC-FG eligibility, there is potential eligibility for Transitional Child Care and Transitional Medical Care. (All-County Letter No. 94-91, October 31, 1994, effective March 1, 1994)

180-6
State regulations in §82-506 provides as follows:

“As a condition of eligibility for assistance, each CalWORKs or foster care applicant/recipient shall assign to the county all rights to child/spousal support for the applicant/recipient or any other family member required to be in the AU under Section 82-820.3.” (§82-506.1, effective October 1, 1998)

180-6A
State regulations in Handbook §12-410 provide:

> “As a condition of eligibility for and under the CalWORKs or Foster Care aid programs, each applicant or recipient shall assign to the district attorney any rights to support from any other person the applicant or recipient may have on his or her own behalf or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid. Receipt of aid automatically constitutes an assignment by operation of law.” (Handbook §12-410.1, effective October 1, 1998)

Despite the differences between §82-506.1 and Handbook §12-410.1, the Handbook refers to §82-506 for assignment of support rights' requirements. (Handbook §12-410.11, effective October 1, 1998)

180-7 ADDED 12/07
If the county determines that the child is no longer eligible for CalWORKs because he/she is living with a non-relative caretaker rather than a relative caretaker, the county should inform the child’s non-relative caretaker that Aid to Family with Dependent Children (AFDC)-Foster Care

benefits may be available for the child. In this instance, the county should also inform the non-relative caretaker that the local legal aid office
or county bar association may be able to provide additional information and assistance in pursuing such benefits.

If the child and non-relative caretaker wish to apply for Foster Care benefits at that time, the CalWORKs worker should refer them to the county's Foster Care office, where a determination of Foster Care eligibility can be made. (All County Information Notice I-36-07, June 27, 2007)

180-8 ADDED 3/08
Federal Child Welfare Policy Manual, Section 8.1B – TITLE IV-E, Administrative Functions/Costs, Allowable Costs – Foster Care Maintenance Payments Program, Question 24 states:

The State may provide a full month's title IV-E foster care maintenance payment to the licensed provider if the brief absence does not exceed 14 days and the child's placement continues with the same provider. Otherwise, the State must prorate its claims if the child is absent from the placement for more than a reasonable brief period. (ACL 07-49, December 19, 2007)

180-9 ADDED 3/09

State law mandates county children's social workers (CSW) and county probation officers (PO) to educate foster children in out-of-home care of their personal rights at least once every 6 months, at the time of a regularly scheduled contact with the child. These rights are afforded to children in relative and non-relative foster family homes, small family homes, group homes, transitional housing placement facilities, and community treatment facilities.

Welfare and Institutions Code section 16009.9 provides a list of these rights, which include under subdivision (a)(20) the right "to review his or her own case plan and plan for permanent placement if he or she is 12 years of age or older and in a permanent placement, and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan." (W&IC §§16501.1, (f)(4), 16009.9(a); §§31-401.5, 31-445.2; ACL No. 08-51, November 13, 2008)

181-1
In order to qualify for the federal AFDC-FC Program, a special requirement is that the child shall be removed from the home of a parent or relative as a result of a court order. This regulation was modified effective January 1, 1993 to allow aid to children removed by voluntary placement in certain situations. (§45-202.4)

181-1A
A child is potentially eligible for federal AFDC-FC benefits when the child is removed from the home of a parent or guardian as a result of a voluntary placement agreement. Both of the following conditions must exist: (1) There is a mutual decision between the child's parent or guardian and the placing agency; and (2) There is a written binding agreement between the County Welfare Department, a licensed adoption agency or CDSS acting as an adoption agency, and the parent or guardian. (§45-202.412)

A child voluntarily placed shall be eligible for AFDC-FC payments for a period up to 180 days beginning with the date one of the above-mentioned agencies assumes responsibility under a voluntary placement agreement, provided all other eligibility requirements are met. (Subsection

.412(c))

181-2A REVISED 5/05
For federal AFDC-FC purposes, the child shall have been linked to the AFDC-FG/U program during the month in which the petition was filed with the juvenile court which led to the child's placement into FC pursuant to a detention or disposition order, or the month in which the voluntary placement agreement was signed.

Linkage is met if the child was living in the home of the parent or relative from whom removed, and (1) was eligible for and received AFDC, or (2) would have been eligible for AFDC if application had been made. Linkage is also met if the child was no longer living in the home of the relative from whom removed, but would have been eligible for AFDC based on that relative's home had the child been living there and had application been made. To meet this condition, the child shall have been living with the relative from whom removed within any of the six months prior to the month in which the petition was filed with the juvenile court which led to the child's FC placement pursuant to a detention or disposition order. (§45-202.331)

181-2B ADDED 3/08
Federal Child Welfare Policy Manual, Section 8.4, Title IV-E General Title IV-E Requirements, AFDC-Eligibility, clarifies that the linkage determination requirement set out in MPP §45-202.33 must be made using the circumstances of the child in the home of removal PRIOR to the actual removal of the child.

For example, the parents may be living together at the time of removal, but one or both parents may go to jail after the incident of abuse. The parental deprivation which happened concurrent with or after the child’s removal cannot be used to satisfy deprivation requirements. (ACL 07-49, December 19, 2007)

181-3
In order for a child to be eligible for federal AFDC-FC, the court order which places the child shall result in the child's placement in foster care with a nonrelative or with a different relative than the one from whose home he or she was removed. This requirement shall be determined to be met if the child was absent from the parent's or relative's home in the month the petition which initiated the court action for removal was filed, provided the child had resided with such parent or relative within any of the six months prior to the month that the petition was filed. (§45-202.411(b))

181-3A
Under federal regulations in order to qualify for federal AFDC-FC, a child's removal from the home, per Social Security Act §472(a)(1), "… must have been the result of a judicial determination (unless the child was removed pursuant to a voluntary placement agreement) to the effect that continuation of residence in the home would be contrary to the welfare, or that placement would be in the best interest, of the child. The contrary to the welfare determination must be made in the first court ruling that sanctions (even temporarily) the removal of a child from home. If the determination regarding contrary to the welfare is not made in the first court ruling pertaining to removal from the home, the child is not eligible for title IV-E foster care maintenance payments for the duration of that stay in foster care." (45 Code of Federal Regulations (CFR) §1356.21(c))

In certain situations, there are limitations to federal eligibility when a child has been removed from the home of a specified relative:

"(1) For the purposes of meeting the requirements of section 472(a)(1) of the [Social Security] Act, a removal from the home must occur pursuant to:

"(i) A voluntary placement agreement entered into by a parent or relative which leads to a physical or constructive removal (i.e., a non-physical or paper removal of custody) of the child from the home; or

"(ii) A judicial order for a physical or constructive removal of the child from a parent or specified relative.

"(2) A removal has not occurred in situations where legal custody is removed from the parent or relative and the child remains with the same relative in that home under supervision by the State agency.

"(3) A child is considered constructively removed on the date of the first judicial order removing custody, even temporarily, from the appropriate specified relative or the date that the voluntary placement agreement is signed by all relevant parties."

(45 CFR §1356.21(k))

181-3J ADDED 7/06
Changes to the foster care program made by the Deficit Reduction Act of 2005 alter foster care eligibility criteria established under *Rosales* v. *Thompson.* Effective immediately, counties must cease basing new eligibility decisions for foster care upon MPP §45-202.332. Eligibility must be based on the home of the parent from whom the child was removed, as set forth in MPP §45-202.331.

Any cases previously determined eligible for foster care using §45-202.332 on or after February 8, 2006 should be evaluated for CalWORKs, KinGAP or other applicable programs. Counties must immediately track all *Rosales* cases for which foster care benefits were paid starting October 1, 2005. (All County Information Notice I-19-06, March 30, 2006)

181-3K ADDED 9/06
The Deficit Reduction Act (DRA) amends the federal Title IV-E statute to alter the foster care eligibility criteria previously established in *Rosales* v. *Thompson*. The CDSS has now received the district court's order issued on June 16, 2006, and the federal instruction letter, ACYF-CB-IM-06-2, issued on June 9, 2006, containing instructions related to the impact of the federal DRA on Rosales cases.

The federal transmittal requires that counties must cease basing new eligibility decisions for foster care upon Manual of Policies and Procedures (MPP) 45-202.332 (the *Rosales* criteria) after February 8, 2006, the date the DRA was enacted; eligibility must be based on the home of the parent from whom the child was removed, as set forth in MPP 45-202.331. Although the *Rosales* court order confirms this instruction, the court has delayed the implementation date for the new eligibility criteria to June 9, 2006, which supersedes the date stated in the federal transmittal dated February 8, 2006.

In addition, counties must now reexamine cases, if any, in which *Rosales* eligibility has already been terminated, and those in which *Rosales* eligibility was denied, on or after February 8, 2006, based on the DRA, as instructed by ACIN I-19-06. This ACIN instructed counties to "immediately 'track' all *Rosales* cases until clarification is received from the court and DHHS." Per the court order, the counties must continue to apply the *Rosales* criteria in MPP 45-202.332 to determine eligibility until June 9, 2006, and must pay any benefits due to such cases until the redetermination of eligibility as required by the federal instructions.

For cases that were determined eligible for foster care benefits using *Rosales* criteria on or prior to February 8, 2006, the federal transmittal also requires that eligibility must be redetermined based upon MPP 45-202.331 on the annual redetermination date, beginning on February 8, 2006. The federal court again confirmed this instruction to redetermine eligibility but delayed the implementation date until June 9, 2006. Specifically, the federal instructions regarding redeterminations of eligibility, as modified by the court order, states as follows:

> "For children in the Ninth Circuit who were determined eligible only because of the *Rosales* decision on or prior to [June 9, 2006], we will permit eligibility for Title IV-E foster care maintenance payments to continue through the month when the child's next annual redetermination of eligibility is due. After the month of redetermination, States will no longer be eligible to receive Title IV-E foster care maintenance payments on behalf of children determined eligible only because of the *Rosales* decision, in accordance with section 472(a) of the Act as amended… if redeterminations are not held timely (i.e. at least every 12 months) for children determined eligible pursuant to *Rosales*, the child will not be eligible for Title IV-E foster care maintenance payments from the month subsequent to the month when the last redetermination was due."

(All County Letter 06-19, June 30, 2006)

181-4
To be eligible for the federal AFDC-FC program, the child shall meet one of the following criteria for placement in FC. The child shall be removed from the home of a parent or relative as the result of a court order which specifies that responsibility for placement and care is given to one of the designated county agencies; and if the child was placed into FC on or after October 1, 1983, reasonable efforts have been made to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home. The court order shall result in the child's placement in FC with a nonrelative or with a different relative than the one from whose home the child was removed. (§§45-202.411(a) and (b))

Subsequent dismissal of jurisdictional and dispositional orders shall not result in the loss of Federal Financial Participation (FFP) provided all other general and federal AFDC-FC requirements continue to be met, and the court order was dismissed because the child turned 18 and certain other requirements are met; or the court order was dismissed because the child was relinquished or a termination of parental rights of one or both parents was granted and placement and care is with one of certain designated agencies. (§45-202.411(c), as modified effective November 26, 1997)

181-5 REVISED 5/05
In the FC program, FFP means Federal Financial Participation and is participation by the federal government in sharing the cost of AFDC-FC payments. (§45-101.1(f)(3))

181-6
Effective July 1, 1997 Federal and State AFDC-FC eligibility shall be determined using the AFDC eligibility standards which were in effect on July 16, 1996. No AFDC waivers may be applied in determining eligibility. (All-County Letter No. 98-01, January 2, 1998)

181-6A ADDED 6/07
Some AFDC/TANF requirements are different from those of the AFDC program as it existed on July 16, 1996, due to AFDC demonstration projects. Demonstration projects incorporated under the AFDC/TANF program include Assistance Payments Demonstration project/California Work Pays Demonstration Project (APDP/CWPDP).

Counties must use July 16, 1996 eligibility factors, excluding waivers, to determine whether the child would have been eligible for AFDC in the petition month and whether the child continues to be eligible at redeterminations.

The following divergent eligibility standards must be addressed:

- Recipient Property Limits

Counties may not apply recipient property limits associated with APDP/CWPDP including the $2000 personal property limit, the $4500 vehicle limit or the $5000 restricted account limit.

Prior to January 1, 1998, state regulations provided that the net market value of nonexcluded real and personal property owned by an AFDC family shall not exceed $1,000. If this limit is exceeded, the family or child is ineligible. The property limit is $2,000 for AFDC FG/U recipients subject to the California Works Pays Demonstration Project. (§42-207.1, invalidated by W&IC §11155)

Prior to January 1, 1998, state regulations provided that one motor vehicle is exempt from consideration as property if its net market value does not exceed $1,500. If the market value exceeds $1,500, the excess over $1,500 shall be treated as a resource and included in the property limit. (§42-213.2z., invalidated by W&IC §11155)

- Income Standards

The MBSAC and 185% income test as of July 16, 1996 must be used to establish linkage to foster care.

- 100 Hour Rule

Even though the 100 hour rule was waived for AFDC recipients as of December 12, 1992, this rule must be used for initial determinations and redeterminations when deprivation is based on unemployment.

- $30 and 1/3 Income Disregard Limit

For purposes of AFDC-foster care eligibility, the four month time limit applies when making initial AFDC linkage determinations.

(All-County Letter No. 98-01, January 2, 1998)

181-6B ADDED 6/07
Prior to January 1, 1998, state regulations provided that, for federal AFDC-U eligibility purposes, the principal earner must have established a connection with the labor force by meeting the requirements of any of the following in six calendar quarters within any 13-calendar-quarter period which ends within one year before the quarter of application: (a) earned gross income of at least $50 per quarter or (b) participated in the Work Incentive Program, Work Incentive Demonstration Program, Community Work Experience, or Greater Avenues for Independence, or (c) a combination of (a) and (b), or (d) by receiving or being eligible to receive Unemployment Insurance Benefits within one year before application or transfer to federal AFDC-U. (§41-440.41, invalidated by W&IC §11201, and formally repealed July 1, 1998)

181-7 ADDED 6/04
An additional requirement for federal AFDC-FC eligibility is that the child be living in an "eligible facility". An eligible facility can include the "approved" home of a relative, former relative or nonrelative extended family member. (§45.202.51)

181-8 ADDED 7/06
County staff must verify that the court made a finding that "continuance in the home is contrary to the welfare of the minor" or a finding to that effect. Other acceptable examples include: "there is substantial danger to the welfare of the minor without removing the minor," or "the welfare of minor requires that custody be taken from parents."

For federal AFDC-FC, this court finding must be in the first court order which removes the child from his or her home (typically the detention hearing). **If this finding is not made at the first hearing which removes the child from his/her home, the child is ineligible for federal AFDC-FC funding for the duration of that stay in foster care.** Special attention should be made in cases where continuances are requested at the detention hearing. If the continuance is granted without a contrary to the welfare finding, the child will be ineligible for federal AFDC-FC for the duration of that stay in foster care. If a continuance is requested, county court staff should request that the judge make the contrary to the welfare finding prior to granting the continuance.

For State AFDC-FC, this finding must be made prior to the approval of State AFDC-FC, but need not be in the first court order removing the child from his or her home.
(ACIN I-27-06, April 25, 2006)

181-8A ADDED 7/06
County staff must verify that the court made a finding that "placement and care" is vested with one of the agencies listed in MPP §45-202.6 (federal) or 45-203.5 (State), or a finding to that effect. Other acceptable examples include: "temporary placement and care is vested with the county" or "care, custody, and control is vested with the county." **This finding may be in any court order, but State and federal AFDC-FC foster care cannot be granted prior to the finding being made.**

(ACIN I-27-06, April 25, 2006)

181-8B ADDED 7/06
County staff must verify that the court made a finding that "reasonable efforts to prevent or eliminate the need for removal" have been made by the county. This finding must be made by

the court no later than 60 days from the date the child is removed from the home; **if this finding is not made timely, the child is ineligible for federal AFDC-FOSTER CARE funding for the duration of that stay in foster care.** For State AFDC-FC, this finding must be made prior to the approval of State AFDC-FC, but need not be made within 60 days from the date of removal.

A finding that reasonable efforts to prevent removal and/or reunify the family is NOT required where the county obtains a finding from a judge that reasonable efforts were not necessary because:

a. the parent has subjected the child to aggravated circumstances such as abandonment, torture, chronic abuse, or sexual abuse; or

b. the parent has been convicted of murder or voluntary manslaughter of another child of the parent; or

c. the parent has been convicted of aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or voluntary manslaughter; or

d. the parent has been convicted of a felony assault that results in serious bodily injury to the child or another child of the parent; or

e. the parental rights of the parent have been terminated to a sibling of the child in foster care.

(ACIN I-27-06, April 25, 2006))

181-9 ADDED 6/07
In 2001, California enacted AB 2695 to conform state law to the federal Adoptions and Safe Families Act (ASFA). The State law (see WIC §§ 361.3, 361.4 and 16518) require that the relative with whom children are placed as well as the relative's home meet standards comparable to federal FC licensing requirements. Prior to the issuance of FC benefits forms must be completed verifying that such requirements have been met. For new approvals, eligibility workers must receive a completed and fully signed approval document once the home has been approved and a placement has been made. Provided all other eligibility criteria have been met, eligibility for new approvals will begin according to the date the approval standards were met. For existing homes, reassessment via the forms was to be completed by August 18, 2002. (All-County Letters (ACLs) Nos. 02-18, 02-58, February 19 and August 2, 2002)

181-9A ADDED 6/07
A home cannot be approved for federal or State foster care funding purposes until Live Scan results are received from the Department of Justice, the FBI clearance has been requested, an affidavit (CCL form LIC 508D) affirming no criminal history has been executed, and rap-back service established. The date of the approval and the date payment of Title IV-E or State AFDC-FC begins is the date that all approval standards are documented as met. However, a child may be placed on an emergency basis (without State or federal foster care funding) based on the results of a CLETS and CACI request pending the Live Scan results and determination that the relative/NREFM otherwise meets approval standards. (ACL No. 05-13, July 16, 2005, answer to Question No. 24)

181-10 ADDED 3/09

The revised state form SOC 815 “Approval of Family Caregiver Home” now provides spaces to list adults who have “significant contact” with a dependent child in running criminal background checks. The following adults are not required to be Live Scanned: Adult friends and family of the foster parent or child in a Certified Family Home or Foster Family Home, who come into the home to visit for a length of time no longer than one month, providing they are not left alone with the dependent child. (Title 22, CCR §89219,(b)(6), (b)(7); Health & Safety Code§1522(b))

181-10A ADDED 3/09

The certified foster parent, licensed foster parent, approved relative or non-relative caregiver, acting as a “reasonable and prudent parent” may allow his or her adult friends and family to provide short-term care to the child and act as an appropriate occasional short-term babysitter for the child (not to exceed 24 hours). (W&IC §362.04(b)).

A “reasonable and prudent parent” or “reasonable and prudent parent standard” means the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interest. (W&IC §362.04(a)(2))

181-10B ADDED 3/09

Medical professionals are not required to be Live Scanned if: The professional is validly licensed in California, and not employed, retained, or contracted by the licensee (caregiver); the professional’s criminal record was already cleared through the professional licensure; the professional is providing time-limited specialized clinical services within the professional’s scope of practice; and, the professional is not a community care facility licensee or an employee of the CCF. (Title 22 CCR., §89219(b)(1))

182-1
For eligibility under the State AFDC-FC Program, the child shall be placed with a nonrelative or be living with a nonrelated legal guardian. (§45-203.2) The court decision in *Timmons* v. *McMahon* held that the SDSS had unlawfully denied AFDC-FC payments to children living with temporary legal guardians. Children otherwise eligible for State AFDC-FC may receive funding under this program when living with a temporary or permanent nonrelated legal guardian. (All-County Letter (ACL) No. 92-08, January 14, 1992)

182-1A REVISED 5/05
In the State AFDC-FC program, no aid shall be paid on behalf of a child who is living in the same home as his/her birth or adoptive parents, as specified in §45-302.2. (§45-203.211, Handbook)

182-2
The Court of Appeal, First Appellate District, Division Three, held §45-101(ee) was invalid to the extent that it treated former stepparents as "relatives" in the State FC Program. (*Norman* v. *McMahon* (1990) 225 Cal. App. 3d 1450, 275 Cal. Rptr. 698) The definition of a "relative" was renumbered, and the *Norman* case was implemented in state regulations by making a revision to the renumbered regulation. (Handbook §45-101(r)(1)(A)3.(a), revised effective August 1, 1998)

Based on a revision to W&IC §11400(m), which had formerly cross-referenced a federal statute,

and which now lists those persons who are "relatives" for AFDC-FC purposes, the CDSS has determined that the *Norman* case no longer applies, nor does Handbook §45-101(r)(1)(A)3.(a). All persons, including former stepparents, listed in §45-101(r)(1) are now considered relatives for both state and federal FC purposes. However, children who were living with former stepparents and who were receiving state AFDC-FC as of September 1, 1999 will continue to be eligible for state FC.

(All-County Letter No. 99-58, September 1, 1999; W&IC §11400(m), revising Handbook §45-101(r)(1)(A)3.(a), effective September 1, 1999)

182-3
Effective July 1, 1997 Federal and State AFDC-FC eligibility shall be determined using the AFDC eligibility standards which were in effect on July 16, 1996. No AFDC waivers may be applied in determining eligibility. (All-County Letter No. 98-01, January 2, 1998)

182-4 ADDED 7/06
County staff must verify that the court made a finding that “continuance in the home is contrary to the welfare of the minor” or a finding to that effect. Other acceptable examples include: “there is substantial danger to the welfare of the minor without removing the minor,” or “the welfare of minor requires that custody be taken from parents.”

For State AFDC-FC, this finding must be made prior to the approval of State AFDC-FC, but need not be in the first court order removing the child from his or her home.
(ACIN I-27-06, April 25, 2006)

182-4A ADDED 7/06
County staff must verify that the court made a finding that “placement and care” is vested with one of the agencies listed in MPP §45-202.6 (federal) or 45-203.5 (State), or a finding to that effect. Other acceptable examples include: “temporary placement and care is vested with the county” or “care, custody, and control is vested with the county.” **This finding may be in any court order, but State and federal AFDC-FC foster care cannot be granted prior to the finding being made.**

(ACIN I-27-06, April 25, 2006)

182-4B ADDED 7/06
County staff must verify that the court made a finding that “reasonable efforts to prevent or eliminate the need for removal” have been made by the county. This finding must be made by the court no later than 60 days from the date the child is removed from the home; **if this finding is not made timely, the child is ineligible for federal AFDC-FOSTER CARE funding for the duration of that stay in foster care.** For State AFDC-FC, this finding must be made prior to the approval of State AFDC-FC, but need not be made within 60 days from the date of removal.

A finding that reasonable efforts to prevent removal and/or reunify the family is NOT required where the county obtains a finding from a judge that reasonable efforts were not necessary because:

a. the parent has subjected the child to aggravated circumstances such as abandonment, torture, chronic abuse, or sexual abuse; or

b. the parent has been convicted of murder or voluntary manslaughter of another child of the parent; or

c. the parent has been convicted of aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or voluntary manslaughter; or

d. the parent has been convicted of a felony assault that results in serious bodily injury to the child or another child of the parent; or

e. the parental rights of the parent have been terminated to a sibling of the child in foster care.

(ACIN I-27-06, April 25, 2006))

183-1 REVISED 6/04
When a child in an AU is moved to FC, the effective date of AFDC-FC assistance is the date he/she is placed in an AFDC-FC eligible facility and is otherwise AFDC-FC eligible. (§44-317.622)

When a child is transferring from AFDC-FC to AFDC-FG/U, or vice versa, but remains in the home of the same related caretaker, the effective date of program transfer is the first of the month following the request for change of program. (§44-317.623)

183-2
In the AFDC-FC program the beginning date of aid is the date of application if the child meets all eligibility conditions on that date, or the date on which the child meets all eligibility conditions, whichever is later. (§45-302.31)

183-4
Under the AFDC-FC Program, current rather than retrospective budgeting is used for grant computation purposes. (§45-302.4)

183-4A ADDED 8/05
Pursuant to MPP §45-302.41 the budget period for computation of the foster care payment is the current month. The payment is to be computed on the basis of known or estimated income in the current calendar month. Additionally, MPP §45-303.1 indicates that foster care payments are to be delivered in one amount no later than the fifteenth of the month after the furnishing of care.

All County Information Notice I-32-05, July 13, 2005)

183-5
Supplementation of SSI/SSP with State AFDC- FC is allowed when the child meets all general and State AFDC-FC eligibility requirements, and the cost of foster care placement exceeds the amount of the SSI/SSP benefit level. (§45-302.11) The SSI/SSP payments are income. (All-County Letter No. 94-82, September 30, 1994.)

183-6A
Effective February 4, 1994, federal AFDC-FC payments may be made to otherwise eligible children receiving SSI/SSP, and SSI/SSP payments are not to be counted as income. (All-

County Letter No. 94-82, September 30, 1994)

183-7
"Excess payments" made to a "family" from child/spousal support collected in any month are considered available income for CalWORKs purposes in the month received. "Pass-on payments" made on behalf of a foster care case shall be considered income in the month received. (§82-520.5, revised effective October 1, 1998 and repealed effective April 1, 2000) These regulations were revised to provide that all excess and pass-on payments made to a family from child/spousal support are considered available income to the family or foster care child. (§82-518.14, effective April 1, 2000)

184-1
To be eligible for "specialized care", a child must be in receipt of AFDC-FC benefits and be placed in an approved family home or a certified home of a nontreatment foster family agency.

Specialized care allows a county to supplement the family home basic rate for children who require additional care and supervision because of a health and/or behavior problem. The specialized care "increment" supplements the basic rate, and the increment and the basic rate equal the "specialized care rate".

(All-County Information Notice (ACIN) No. I-113-00, November 30, 2000)

184-2
The Specialized Care Rates Program is administered at the local level. It is subject to review by the CDSS. Counties which want to adopt or modify such a program are required to submit a proposal to CDSS, which proposal must include the following.

> The current and proposed population to be served including the types of behavior and/or health problems.

> The current and proposed types of facilities utilized.

> Demonstration of cost neutrality to the State General Fund.

> The county's payment approval process.

A detailed description of the required data elements for county proposals is found in §11-401.323.

Following a county's submittal to modify or adopt its specialized care system/plan, CDSS will review the proposed plan and will notify the county in writing whether it was rejected or granted conditional approval. Within one year of the implementation date of the proposal, the county will be required to submit specific documentation as stated in §11-401.34, to demonstrate that the proposed AFDC-FC payments have not increased costs to the State General Fund. The Department will grant final approval of the county's plan contingent upon the county's demonstration of this cost neutrality.

(All-County Information Notice No. I-113-00, November 30, 2000)

185-2
State law deals with overpayments and underpayments in the AFDC Program. (W&IC §11004) Current and future grants payable to an AU may be reduced because of prior overpayments to an extent consistent with federal law. (Subsection (c))

If the Department determines after a hearing that an overpayment occurred, the county providing the public social services shall seek to recover in accordance with Subdivision (c) the full amount of the overpayment to the AU including any amount paid while the hearing process was pending, if required in order to conform to federal law or regulation. (Subsection (f))

If the individual is no longer receiving aid under Chapter 2 (commencing with §11200) recovery of overpayments received under that Chapter shall not be attempted where the outstanding overpayments are less than $35. Where the overpayment amounts owed are $35 or more, reasonable cost effective efforts at collection shall be implemented. Reasonable efforts shall include notification of the amount of the overpayment and that repayment is required. The Department shall define reasonable cost effective collection methods. In cases involving fraud, every effort shall be made to collect the overpayment regardless of the amount. (Subsection (g))

This subdivision shall be applicable only to applicants, recipients, and payees under Chapter 2 commencing with §11200 of Part 3 of Division 9. W&IC §11400, et seq., deals with AFDC-FC. That article is contained within Chapter 2, Part 3 of Division 9 of the W&IC. (Subsection (l))

185-3 REVISED 6/08
State law was amended effective January 1, 1999, to allow collection of certain Foster Care (FC) overpayments. The new law provided, in pertinent part, that:

"(a) In accordance with this section, a county shall collect an overpayment, discovered on or after January 1, 1999, made to a foster family home, an approved home of a relative, **an approved home of a nonrelative extended family member,** or an approved home of a nonrelative legal guardian, for any period of time in which the foster child was not cared for in that home, unless any of the following conditions exist, in which case a county shall not collect the overpayment:

"(1) The cost of the collection exceeds that amount of the overpayment that is likely to be recovered by the county. The cost of collecting the overpayment and the likelihood of collection shall be documented by the county. **Costs that the county shall consider when determining the cost-effectiveness to collect are total administrative, personnel, legal filing fee, and investigative costs, and any other applicable costs.**

"(2) The child was temporarily removed from the home and payment was owed to the provider to maintain the child's placement, **or the child was temporarily absent from the provider's home, or on runaway status and subsequently returned, and payment was made to the provider to meet the child's needs**.

"(3) The overpayment was exclusively the result of a county administrative error or both the county welfare department and the provider were unaware of the information that would establish that the foster child was not eligible for foster care benefits.

"(4) The provider did not have knowledge of, and did not contribute to, the cause of the overpayment."

(W&IC §11466.24, effective January 1, 1999 as amended by Senate Bill 84, Chapter 177, Statutes of 2007. **Amendments in bold**)

185-3A
Despite the limitations placed on the collection of overpayments set forth in W&IC §11466.24(a), it is the position of the CDSS, as reflected in its regulations, that: "Nothing in §45-304.121 prevents counties from collecting an overpayment which results from the payment of aid paid pending." (§45-304.122)

185-3B
Under California law, the State cannot seek reimbursement of public assistance funds absent specific statutory authority to recoup such funds. (*Ogdon* v. *Workmen's Comp. Appeals Bd.* (1974) 11 Cal. 3d 192) This principle has been used to invalidate regulations of the Department of Benefit Payments (the predecessor of the CDSS) which permitted the counties to recover aid paid pending when the administrative appeal was unsuccessful. (*Webb* v. *Swoap* (1974) 40 Cal. App. 3d 191, 114 Cal. Rptr. 897)

185-3C
State regulations provide that the county "shall not demand collection of [FC] overpayments where any of the following conditions exist:". (§45-304.121, effective July 6, 2000)

These conditions set forth in §§45-304.212(a) through (e), are the same as those set forth in state law. Under state law, the county "shall not collect the overpayment" if any of those conditions exist. (W&IC §11466.24(a))

185-3D
State regulations provide that the county shall not "demand collection" of the FC overpayment when the cost of the collection "exceeds the amount of the overpayment." (§45-304.121(e)) Costs which the county shall consider when determining the cost effectiveness of collection are the total administrative and personnel costs, legal filing fees, investigative costs, and any other costs which are applicable. (§45-304.121(e)(1))

State law provides that the county shall not "collect the overpayment" when the cost of the collection "exceeds that amount of the overpayment that is likely to be recovered" by the county. That same law requires the county to document both the cost of collecting the overpayment and the likelihood of collection. (W&IC §11466.24(a)(1))

185-4
FC overpayments are to be investigated when information indicates that such overpayments may have occurred.

Under state regulations, the following process is followed:

.211 Review eligibility factors to determine the correct grant.

.212 If an overpayment has occurred, determine whether any factors in §45-304.121 preclude overpayment recovery.

.213 If none of those factors preclude recovery, calculate the overpayment.

.214 Determine from whom the overpayment may be recovered by referring to §45-304.3.

.215 Determine the appropriate recovery method, referring to §45-305, and the amount to be recovered.

(§45-304.2)

185-4A
Under state regulations in §45-304.2, an overpayment can be recovered from an FC provider when such provider cared for a child in that provider's home, and none of the provisions in §45-304.21 apply. Under state law, an overpayment can only be established against "a foster family home, an approved home of a relative, or an approved home of a nonrelated legal guardian, for any period of time in which the foster child was not cared for in that home." [emphasis added] (W&IC §11466.24(a))

185-5
FC overpayments shall only be collected from the provider who actually received the overpayment from the county. (§45-304.31) If the child for whom the overpayment was assessed is no longer residing in the home of the provider, grant adjustment and grant offset shall not be used to recover the overpayment. (§45-304.32)

185-6
Under state law:

"There shall be a one-year statute of limitations from the date upon which the county determined that there was an overpayment."

(W&IC §11466.24(f))

185-6A
"The initial determination of the [Foster Care] overpayment may occur more than a year after the actual overpayment occurred and recovery shall be sought. The date of the determination is controlling, not the date of the actual overpayment." (Handbook §45-304.421)

185-7 REVISED 5/05
The county may recover FC overpayments through voluntary repayment agreements, voluntary grant offsets, grant adjustments, demand for repayment, or civil judgment. (W&IC §11466.24(e); §45-305.1, .2)

185-8
If an FC provider is successful in the appeal of a collected overpayment, the incorrectly collected funds shall be repaid, plus simple interest, based on the Surplus Money Investment Fund. (§11466.24(d))

185-9 ADDED 6/08
Welfare and Institutions Code (W&IC) section 11466.23 defines a federal foster care or adoption assistance overpayment as any amount of aid paid to which a foster care provider or an

adoption assistance recipient was not entitled. The addition of this section identifies those placement categories described in W&IC Section 11400 as Certified Family Homes, licensed or approved Family Homes, Small Family Homes, Foster Family Agencies, Group Homes, Relatives, and Non-Relative Extended Family Members as placement categories that are now statutorily eligible for overpayment identification and collection.

This section requires counties to remit the identified federal fund overpayment amounts following the completion of due process, unless any of the following occurs:

- The amount is legally uncollectible pursuant to Section 11466.24.
- The cost of the collection exceeds the overpayment.
- The foster family agency (FFA) or group home (GH) is no longer in business or licensed by Community Care Licensing.

(All County Letter 08-10, March 21, 2008)

185-9A ADDED 6/08
Welfare and Institutions Code (W&IC) section 11466.24 has been amended to expand the population of foster care placements subject to overpayment collection and due process procedures to include an approved home of a nonrelative extended family member. In addition to identifying the conditions under which a county should not collect an overpayment, this section adds language that identifies the types of costs counties should consider when determining the cost effectiveness of collecting overpayments. These costs are identified as total administrative, personnel, legal filing fees, investigative costs, and any other applicable costs.

Furthermore, language has been added that clarifies the different situations in which an overpayment should not be collected. For example, a child may be temporarily absent from the provider's home in addition to having been temporarily removed from the home; or, the child was on runaway status and payment was owed to the provider to maintain the child's placement or to meet the child's needs. The amended section also provides consistency for provider due process through the use of both informal and formal hearings rather than a review. (All County Letter 08-10, March 21, 2008)

186-1
Rates for AFDC-FC children placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, are based on statutory monthly rates established in July 1989 and adjusted based on statutory formulae. (W&IC §11461)

186-2
When an AFDC-FC child is placed in a different county than the county with payment responsibility, the responsible county shall pay the host county's rate.

This rule shall also apply in counties with specialized care rates, except if the host county has no specialized care rate and the responsible county does have such a rate, the county responsible for payment shall pay its own rate. (§11-401.4)

186-3
An FC child residing in a family or group home as a result of placement by a public agency, or

by a private agency which has legal custody due to relinquishment or court order, is considered to make his/her home in the county in which the agency is located.

The agency has placed the child if it actively participated in making the decision as to whether or not the child was to be placed, and if it initiated the placement through direct negotiations or requested help in making the placement. (§40-125.81)

186-4
When an agency has placed a child in FC, and at that time or thereafter a court of competent jurisdiction in another county accepts responsibility for the child, the first county shall initiate an intercounty transfer of the child's FC case to the county where the court is located. (§40-125.84)

186-5 REVISED 3/07
No intercounty transfer is necessary when the first county places a child in a second county. The first county continues to be responsible for payment of aid.(§40-190.32, formerly §40-187.221)

186-6
The "basic rate" is defined as the rate paid on behalf of an AFDC child placed in a family home exclusive of any specialized care increment. (§11-400b.(3))

A "specialized care increment" is defined as an amount paid to a family home in addition to the family home basic rate on behalf of an AFDC-FC child requiring specialized care because of health and/or behavior problems. (§11-400s.(6))

The "specialized care rate" is defined as the total rate (family home basic rate plus the specialized care increment) paid on behalf of an AFDC-FC child requiring specialized care. (§11-400s.(7))

Counties shall separately identify their family home basic rate and specialized care increment. (§11-401.211)

186-7 ADDED 6/04
Notwithstanding any other provision of law, the State Department of Social Services shall use the residential facility rates established by the State Department of Developmental Services to determine rates to be paid for 24-hour out-of-home nonmedical care and supervision of children who are both regional center clients pursuant to §4684 and AFDC-FC recipients under the provisions of this chapter and placed in licensed community care facilities. Any services authorized by a regional center for AFDC-Foster Care recipients that are not allowable under state or federal AFDC-Foster Care program requirements shall be paid pursuant to §4684. (W&IC §11464)

186-7A ADDED 10/04
Notwithstanding any other provision of law, the cost of providing 24-hour out-of-home nonmedical care and supervision in licensed community care facilities shall be funded by the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program pursuant to §11464, for children who are both AFDC-Foster Care recipients and regional center clients.

(Welfare and Institutions Code (W&IC) §4684)

186-8 ADDED 10/04
The funding responsibilities of the CDSS with respect to foster children who are regional center clients (dual agency children) are defined in Welfare and Institutions Code (W&IC) §§4684 and 11464.

Regional centers are responsible for setting rates for facilities serving regional center clients in accordance with statute. The regional centers are also responsible for setting the level of care needed by dual agency children and notifying the county of the approved service level for the child and the corresponding established Alternative Residential Model (ARM) rate for the placement facility. The county and regional center share responsibility for ensuring an appropriate level of placement for dual agency children. The county is responsible for assuring the claim submitted for payment of AFDC-foster care funds is for allowable costs and in the correct amount, based upon the level assigned to the placement facility. The counties and regional centers are responsible for maintaining an open line of communication and participation regarding the services assessed and provided to dual agency children. (All County Letter 98-28, May, 4 1998)

186-8A ADDED 6/04
If a dual agency foster child receives an SSI/SSP payment and resides in a licensed foster home or residential care facility, he or she may receive the P&I Allowance. Likewise, an adopted child who is also a regional center consumer and receives an SSI/SSP payment and AAP benefits concurrently while living with his or her adoptive parents, may receive the value of a P&I Allowance because the AAP benefits are based on the amount that would have been paid had the child remained in foster care. But the P&I Allowance is not included in a residential care facility's basic rate.

For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs. (DSS All County Letter 03-60, November 13, 2003.)

186-8B ADDED 2/05
Regional center placements may also be made into small family homes, licensed foster family homes, group homes and certified homes of a Foster Family Agency. The provisions of WIC Section 11464 apply to AFDC-Foster Care children placed in any of these licensed facilities having a "vendorized" or contractual relationship with the regional centers.

Relative caregivers are exempt from licensure as a CCF. Therefore, the funding for the placements of dual agency children with unlicensed relatives is not governed by WIC Section 4684 or 11464 which only apply to licensed CCFs.

(All County Letter 98-28, May 4, 1998)

186-9 ADDED 10/04
The appropriate rate to pay for a child placed with a relative/non-relative extended family member (NREFM) who is also a certified home of a foster family agency (FFA) depends on the type of placement the child needs and whether the child is federally or state eligible for foster care.

If the child needs an FFA placement and the county places the child with an FFA who then places the child in a certified home of a person who happens to be a relative/NREFM of the child, then the county may pay the FFA rate for the placement.

If the county places the child in an approved home of the relative/NREFM who is also an FFA certified home (or later becomes one), and the child's needs can be met by a relative/NREFM placement, then the county may only pay the basic rate (plus specialized care if appropriate) regardless of the relative/NREFM's status as an FFA certified home. (All County Letter 04-28, July 16, 2004)

186-10 ADDED 6/08
Effective July 1, 2007 there are new dual agency care rates for children who are served by both California Regional Centers and California Child Welfare and Probation Agencies. Children who are consumers of regional center services and recipients of either AFDC-FC or AAP benefits are hereinafter referred to as “dual agency children”.

Welfare and Institutions Code (W&IC) § 11464 recently enacted by Senate Bill 84 establishes a new rate of two thousand and six dollars ($2,006) for the care and supervision of dual agency children three years of age and older. It establishes a new rate of eight hundred ninety-eight dollars ($898) for the care and supervision of children under three years of age who receive services under the California Early Start Intervention Services Act, but are not yet determined to have a developmental disability, as defined in the Lanterman Developmental Disabilities Services Act, (hereinafter referred to as “the Lanterman Act”).

SB 84 establishes that if a regional center subsequently determines that a child under three years of age is an individual with a developmental disability, as defined in the Lanterman Act, the rate to be paid from the date of that determination is $2,006.

(All County Letter 08-17, March 28, 2008)

186-10A ADDED 6/08
SB 84 establishes a new supplement to the $2,006 rate not to exceed one thousand dollars ($1,000) for dual agency children three years of age and older with extraordinary care and supervision needs.

SB 84 requires the California Department of Social Services (CDSS) and the Department of Developmental Services (DDS), in consultation with stakeholders, to develop objective criteria for determining eligibility for a supplement to the rate as well as rate levels of the supplement. The criteria must be implemented by an ACL within 120 days of the date on which the changes in dual agency care rates became effective. (All County Letter 08-17, March 28, 2008)

186-10B ADDED 6/08
For purposes of dual agency rate setting**,** a foster care provider receives a per child, per month, AFDC-FC rate for providing care and supervision to a foster child placed with that provider in one of the following:
1) the approved home of a relative;
2) the licensed family home of a non-relative;
3) the approved home of a non-relative extended family member; or

4) the home of a non-related legal guardian or former non-related guardian when the guardianship of a child otherwise eligible for AFDC-FC has been dismissed due to a child attaining 18 years of age. (W&IC Sections 11402, 11461, and 362.7).

(All County Letter 08-17, March 28, 2008)

186-10C ADDED 6/08
For foster care providers receiving an AFDC-FC rate for a dual agency child where the rate was set prior to July 1, 2007, and that rate is higher than the $2,006 rate, (and the supplement to the rate, if applicable), the higher rate will remain in effect until a change in placement warrants a redetermination of the rate or the child is no longer AFDC-FC eligible.

For foster care providers receiving an AFDC-FC rate for a dual agency child paid before July 1, 2007, that is lower than the $2,006 rate, (and the supplement to the rate, if applicable), counties shall increase the lower rate to the $2,006 rate, (and the supplement to the rate, if applicable), retroactive to July 1, 2007. (All County Letter 08-17, March 28, 2008)

186-10D ADDED 6/08
The rate for the care and supervision of a child under three years of age who is receiving AFDC-FC benefits and services under the California Early Start Intervention Services Act but who has not yet been determined by the regional center to have a developmental disability, as defined in the Lanterman Act, is $898 per child, per month. **There is no supplement to this rate.**

If a regional center subsequently determines that a child under three years of age has a developmental disability, as defined in the Lanterman Act, the rate to be paid from the date of the determination is $2,006. **There is no supplement to this rate.**

For foster care providers receiving an AFDC-FC rate that is higher than the $898 rate for a dual agency child under three years of age paid before July 1, 2007, foster care providers will continue to receive the higher rate until a change of placement warrants a redetermination of the rate or the child is no longer AFDC-FC eligible.

For foster care providers receiving an AFDC-FC rate that is lower than the $898 rate for a dual agency child under three years of age paid before July 1, 2007, counties shall increase the lower rate to the $898 rate, retroactive to July 1, 2007. (All County Letter 08-17, March 28, 2008)

186-10E REVISED 3/09
Welfare and Institutions Code (W&IC) Section 11464 (c)(2)(A), gives a county sole discretion to authorize a supplement to the rate not to exceed $1,000 for dual agency children three years of age and older, if it determines the child has the need for extraordinary care and supervision that cannot be met within the $2,006 rate. Upon request of a foster care provider, **or** upon referral from a regional center, the county must determine the eligibility of a dual agency child for a supplement to the rate.

The CDSS and Department of Developmental Services (DDS), in consultation with stakeholders representing county child welfare agencies, regional centers, advocates, legislative staff and foster and adoptive parents are currently developing objective criteria that counties will use to determine eligibility for the supplement to the rate, pursuant to W&IC Section 11464 (c)(2)(A). (All County Letter 08-17, March 28, 2008, 08-54, December 1, 2008)

186-10F ADDED 6/08
Welfare and Institutions Code (W&IC) Section 11464, as added by SB 84, Chapter 177, Statutes of 2007, includes provisions for dual agency children who are receiving AFDC-FC benefits and for whom an ARM rate determination request was pending with a regional center before July 1, 2007. Specifically, these children will receive the ARM rate determined by the regional center through an individualized assessment, or the $2,006 rate, (and the supplement to the rate, if applicable), whichever is greater. This process is limited to ARM rate requests that had been made and were pending before July 1, 2007. The county must verify with the regional center that the rate request was made before July 1, 2007, and establish the rate accordingly.

Except when the county can confirm that the rate request was made before July 1, 2007, effective July 1, 2007, the regional centers will no longer establish ARM rates for AFDC-FC purposes, and counties may not accept such letters from the regional centers to have rates established. (All County Letter 08-17, March 28, 2008).

186-10G ADDED 3/09

The Supplement to the Dual Agency Rate (SDA Rate) is not available to children under the age of three years who are provided services by a Regional Center through the California Early Start Intervention Services Act. Early start dual agency children (under the age of three years) in foster care or who are adoptively placed receive a special rate under Senate Bill 84 (currently $898.00 each month as of July 1, 2007). (ACL 08-54, December 1, 2008)

186-10H ADDED 3/09

Effective December 1, 2008, the county has 60 days to send out an information letter regarding the Supplement to the Dual Agency (SDA) Rate.

The SDA Rate may be requested either directly by a dual agency child's foster caregiver or adoptive parent, or through a referral from a Regional Center. A referral from the Regional Center does not provide an automatic right to receive the SDA Rate. The county must determine the child's eligibility to receive the SDA Rate within 90 days of the receipt of the request for this rate. (ACL 08-54, December 1, 2008)

186-10I ADDED 3/09

The Supplement to the Dual Agency Rate (SDA Rate) is structured in four levels of $250.00, $500.00, $750.00, and a maximum of $1,000.00, based upon the assessment of the severity of a dual agency child's condition. The SDA Rate, once determined, will remain in effect until the dual agency child is no longer eligible to receive Regional Center services, or is no longer eligible for Foster Care or AAP benefits. (ACL 08-54, December 1, 2008)

186-10J ADDED 3/09

The counties must use objective criteria developed by the state to determine extraordinary care and supervision needs used to determine the SDA Rate, which are based upon: (1) Severe impairments in physical coordination and mobility; (2) severe deficits in self-help skills; (3) severely disruptive or self-injurious behavior; and/or, (4) a severe medical condition.

A state form (SOC 837), the "Supplement to the Rate Questionnaire," must be used to assess the child's eligibility for the SDA Rate. The assessment must be performed by the county child

welfare services worker or adoption worker, and the Regional Center (RC) service coordinator or other RC representative. The assessor and the person reviewing the document must sign and return the SOC 837 to the county or adoption district office within 10 days for processing. The county may also collect information from other professionals, such as MFTs, LCSWs, or other medical, developmental, educational, or mental health professions who have relevant information on the child's condition.

Once the assessment of the child is completed using the SOC 837 Questionnaire, the county child welfare services or adoption worker must complete the "Supplement to the Rate Eligibility Form" (state form SOC 836), to determine the dual agency child's SDA Rate. Foster caregivers and adoptive parents will receive the completed SOC 837 and 836 upon request

(ACL 08-54, December 1, 2008)

186-10K ADDED 3/09

For dual agency children adoptively placed or placed in foster care on or after July 1, 2007, through December 1, 2008, the date ACL No. 08-58 was issued, the effective date of SDA Rate is either: July 1, 2007; the date of foster care or adoptive placement; or, the date the child becomes a Regional Center consumer, whichever is later.

For children entering foster care or are adoptively placed and are recipients of AFDC-FC or AAP benefits after December 1, 2008, the effective date of the SDA Rate is the date the request for the rate is made, or the date of the Regional Center referral to the county for determination of this rate, which date is earlier.

For dual agency children in foster care or who have been adoptively placed after December 1, 2008, but before the information letter from the county is received, the effective date of the SDA Rate is: December 1, 2008; the date of placement; or, the date of the child becomes a Regional Center consumer, whichever date is later. (ACL 08-54, December 1, 2008)

186-10L ADDED 3/09

Children who receive or request rates pursuant to Senate Bill 84 are afforded the same rights to due process as all children applying for Foster Care or AAP benefits. (Welfare and Institutions Code (W&IC) §11464(a)(4), ACL 08-54, December 1, 2008)

187-1 ADDED 9/08
The Safe and Timely Interstate Placement of Foster Children Act of 2006, enacted July 3, 2006, amended the Social Security Act to require that states:

1. Develop a process to ensure that foster care and adoptive home studies for children placed across state lines are completed within 60 calendar days and that the results are available to be reported to the federal government.

2. Establish a 14-day time frame for agencies to reject the foster or adoption home study done in another state for the purpose of placing a California child across state lines.

3. Ensure that caregivers have the right to be heard in any court proceeding.

4. Require the court to consider both in-state and out-of-state options in a variety of circumstances involving permanency planning decisions. These changes were intended to reduce the time a child waits in foster care before being placed into a foster or adoptive home.

(All County Letter 08-26, May 28, 2008)

187-2 ADDED 9/08
As a result of Safe and Timely Interstate Placement of Foster Children Act, Senate Bill 703 added Family Code sections 7901.1 and 7906.5. These sections require that within 60 days after California receives a request from another state to conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home, the county child welfare agency or adoptions district office shall:

1. Conduct and complete the home study.
2. Return to the requesting state a report of the results of the study which addresses the extent to which the placement would meet or not meet the needs of the child.

(All County Letter 08-26, May 28, 2008)

187-3 ADDED 9/08
Family Code sections 7901.1 and 7906.5 provide an exception to the timeline requirements for home studies conducted by counties on or before September 30, 2008. This exception applies if the county or adoptions district office is unable to meet the 60-day requirement because of circumstances beyond the control of the county or adoptions district office.

The exception will only apply, however, if the county or adoptions district office documents that the request for information was made at least 45 days before the end of the 60-day period, and the county or adoptions district office can certify that completing the home study is in the best interest of the child. In the event these criteria are met, the county or adoptions district office will have 75 days to complete the home study. **After September 30, 2008, this exception will no longer apply.**

(All County Letter 08-26, May 28, 2008)

187-4 ADDED 9/08
In determining whether a home study request is complete, counties and adoptions district offices should look to the date that the county or adoptions district office had all relevant documents and information necessary to initiate the home study.

This should be the date that the county or adoptions district office receives a completed Interstate Compact on Placement of Children (ICPC) 100A form with all appropriate attachments and necessary information as defined in the instructions attached to the ICPC 100A and directed by the Division 31 regulations (MPP) Division 31-510.53 and Title 22, Division 2, Subchapter 9, ICPC, Sections 35401 through 35409.

(All County Letter 08-26, May 28, 2008)

187-5 ADDED 9/08
A state shall treat any home study report received from another state or an Indian tribe as meeting the requirements imposed by that state for the completion of a home study before placing a child. The only exception is if the requesting state makes a specific determination within 14 days of receipt of the report. There must be a determination that, based on grounds specific to the content of the report, placing the child in reliance on the report would be contrary to the welfare of the child. California has adopted this requirement in SB 703 at Family Code

sections 7901.1 and 7906.5. If the county or adoptions district office makes this determination, it should document the circumstances. (All County Letter 08-26, May 28, 2008)