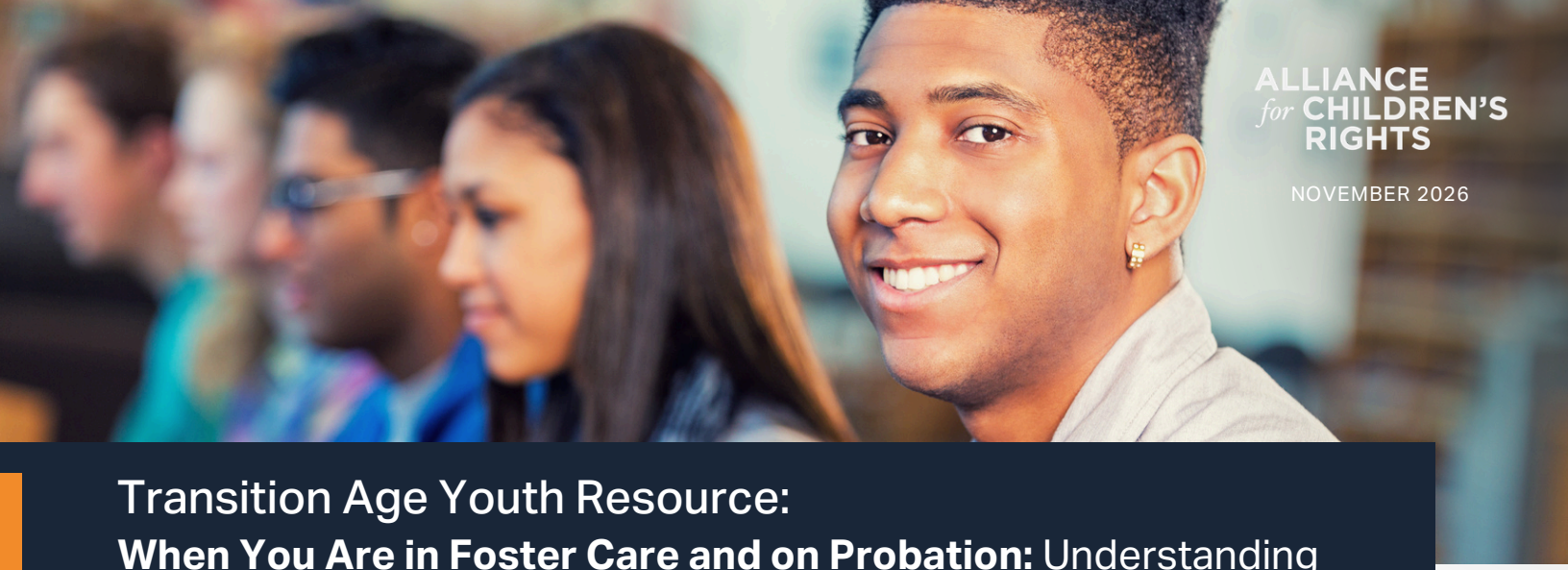

ALLIANCE for CHILDREN'S RIGHTS

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Transition Age Youth Resource:
When You Are in Foster Care and on Probation: Understanding Your Rights, Responsibilities, and Supports as a Dual Status Youth

If you are involved with both the child welfare system and the juvenile justice system, you may feel like you are living under two sets of rules. You may have two agencies, two attorneys, two case plans, and two sets of expectations. It can be confusing, and it is easy to feel like no one is fully responsible for helping you.

You have rights. This resource explains the rights you have, the responsibilities you carry, and the supports you can ask for as a young person aged 16 to 24 who is on probation or supervised release and who is also, or were once, in foster care.

Every county in California handles these cases a little differently, because state law requires each county to write its own protocol.[1] Ask your attorney, social worker, or probation officer how your county does it. You have the right to know.

What "Dual Status" Means

You may hear people use words like "dual status youth," "dual jurisdiction youth," "crossover youth," or "dually involved youth." These words describe a young person who is connected to both the child welfare system and the juvenile justice system at the same time, or who moves back and forth between them. Child welfare system cases are also called dependency cases.

This can happen when **both** of the following are true:

- You have, or could have, a dependency case because of abuse, neglect, abandonment, or safety concerns at home; and
- You have a juvenile delinquency case because you are accused of breaking the law, the court found that you broke the law, or you are on probation.

When it looks like you could come under both the dependency court and the delinquency court, California law requires the county child welfare agency and the probation department to work together, assess your situation, and give the juvenile court a joint recommendation about which status best serves your interests and protects the community.[2] The judge makes the final decision, and the assessment must be presented to the court before your case is decided.[3]

Every county must have a written protocol that describes how this works. Counties choose one of two basic approaches:

- On-hold model. Your dependency case is paused, or "put on hold," while you are a ward (under the legal custody) of the delinquency court. When it looks like the delinquency case is ending, the two agencies assess again and recommend whether dependency should start back up.[4]
- Lead court/lead agency model. One court and one agency are named as the lead. That agency (either child welfare or probation) handles your case management, your court hearings, and your court reports.[5]

Some counties also allow you to be dependent in the juvenile court and a ward in the delinquency court at the same time. A court can only do this if the county has signed a dual status "protocol" (aka an agreement) first.[6]

Questions to ask if you are involved with both systems

If you are not sure where you stand, ask your attorney, social worker, or probation officer:

- Am I a dependent, a ward, a dual status youth, a nonminor dependent, or something else? And what does that mean for me?
- Which court is responsible for my case right now? How does that impact me and my case?
- Which agency is responsible for my placement, care, and services? What does that mean for me?
- Do I have one attorney or two attorneys, and, if two, do they talk to each other? What does that mean for me?
- What are my exact probation terms or release conditions, in writing?
- What services, placement supports, education supports, mental health services, and transition supports are in my case plan? What is the best way for me to provide my input on my case plan?

- When can a Child and Family Team (CFT) meeting be convened to help everyone on my support team coordinate? Can I have a copy of the CFT plan and my Transitional Independent Living Plan (TILP)? What is the timeline for starting the supports or services?
- Can I see a copy of my county's dual status protocol?

Your Rights in Foster Care

The California Foster Youth Bill of Rights applies to every young person placed in foster care, whether you were placed voluntarily or after the court declared you a dependent (under Section 300) or a ward (under Section 601 or 02). It also applies to nonminor dependents, except where a right would conflict with your legal decision-making authority as an adult.[7] Being on probation does not take these rights away. In all, the Foster Youth Bill of Rights contains more than 40 listed rights to protect youth under the care of the state either as a dependent in foster care or a ward in the delinquency court system.

Understanding your rights can help you understand when you are not being treated fairly and can help you speak up if you think your rights are being violated. Visit Foster Youth Rights Handbook[8] for the complete list of your rights and resources.

Your Rights in Court and With Your Attorney

You have the right to be represented by an attorney in juvenile court, to talk with your attorney confidentially, and to ask the court for a hearing if you believe your attorney is not representing you properly.[9] Depending on your case, you may have a dependency attorney, a delinquency attorney, or one attorney handling both.

You have the right to receive notice of your court hearings, to attend them, to speak to the judge, and to see and receive a copy of your court file, subject to confidentiality laws.[10] If you are entitled to your court report, case plan, or Transitional Independent Living Plan, they must be given to you in your primary language. You also have the right to view and receive a free copy of your child welfare records, juvenile court records, and education records until you turn 26.[11]

If you are arrested, questioned, or detained:

- Within one hour of being taken to a place of confinement, you have the right to make at least two free phone calls: one to a parent, guardian, responsible relative, or employer, and one to an attorney.[12]

- Contact attorneys, ombudspersons, and advocates about the conditions you are living in or violations of your rights, and to be free from retaliation for doing so.[25]
- Not lose food, family or attorney contact, sleep, exercise, education, bedding, clothing, religious services, showers, water, toilets, hygiene products, medical services, reading material, or mail as a punishment, and not be placed in room confinement as a disciplinary measure. You have the right to be told the accusations against you, to be heard, to present evidence, and to appeal a disciplinary decision.[26]
- Receive a rigorous, quality education that prepares you for graduation, career entry, and postsecondary education, including access to college and career technical courses.[27]
- Attend every court hearing about you, and to make at least two free phone calls within an hour of arriving at a juvenile facility after an arrest.[28]

Every juvenile facility must give you an orientation that explains your rights, give you a copy of those rights, and post them where you can see them, including in classrooms and living units.[29]

Phone calls and room confinement

County and city youth detention centers must provide functional voice communication services free of charge, both to you and to the person you are calling. County and city agencies are not allowed to make money from your calls.[30]

Room confinement cannot be used to punish, coerce, retaliate against, or for the convenience of staff, and it cannot be used until less restrictive options have been tried. It generally must not last longer than four hours. If staff extend your room confinement, they must document the reason, build an individualized plan to return you to the general population, and get authorization every four hours. You must always have reasonable access to a toilet at all hours, including during sleeping hours.[31]

If you believe your rights are being violated, or the conditions where you are held are harmful, you can contact the Office of Youth and Community Restoration Ombudsperson by calling 1-1-844-402-1880 or emailing OYCRombuds@chhs.ca.gov. Your contact is confidential and you cannot be punished for it.[32]

Your Education Rights

Your education rights is one of the most important things to understand. California's foster youth education rights apply to any young person who is the subject of a petition under Section 300 or Section 602, whether or not you were removed from your home.[33] If you are on probation and living at home, you still have these school rights. Some college supports, described later, require that you were in a foster care placement.

You have the right to:

- Stay in your school of origin when your placement changes, if it is in your best interest, and to enroll immediately in a new school even if you do not have your records, transcripts, immunization records, uniform, or proof of residency, and even if you owe fees to your last school.[34]
- Get help from your school district's educational liaison for foster youth, who must make sure you are properly enrolled and that your credits, records, and grades transfer.[35]
- Receive full or partial credit for all coursework you satisfactorily completed at any public school, juvenile court school, charter school, or nonpublic school, and not be forced to retake a course you already finished.[36]
- Be exempted from your school district's extra local graduation requirements if you transfer schools after your second year of high school and cannot reasonably finish those requirements on time. If you take the exemption, no one can push you to graduate early, and you have the right to stay for a fifth year to complete your high school education.[37]
- Not be denied enrollment or readmission to a public school just because you have had contact with the juvenile justice system, including because you were detained for any length of time or attended a juvenile court school.[38]
- Receive the same graduation exemption if you transfer into a juvenile court school after your second year of high school. The county office of education must tell you, your education rights holder, your social worker, and your probation officer within 30 days whether you qualify.[39]
- Have a transition plan when you leave a juvenile court school. If you were detained more than 20 consecutive school days, the county office of education must work with probation to develop an individualized transition plan before your release that addresses your academic, behavioral, social-emotional, and career needs. Your transcripts and a credit analysis must be given to you when you are released.[40]

- Have your grades protected. Your grades cannot be lowered because of absences caused by a placement change, a court appearance, or a court-ordered activity.[41]
- Attend a regular school. You cannot be forced into a continuation school, alternative school, or independent study only because you are behind on credits, involved in court, or in foster care or on probation.[42]

Your Family, Culture, and Community Connections

You have the right to visit and contact your siblings, family members, and relatives privately, unless a court order says otherwise, and to ask the court for sibling visitation. You have the right to social contact with people outside the foster care system, including teachers, coaches, mentors, faith community members, and friends, and to attend religious or spiritual services and ceremonies of your choice.[43]

If you are Native American or may have Native American ancestry, the court, the child welfare agency, and the probation department each have an affirmative and continuing duty to ask whether you are an Indian child. Indian Child Welfare Act protections apply in wardship cases whenever you are in foster care or at risk of entering foster care, which includes many dual status youth.[44] Tell your attorney if you have any tribal connection, even if you are not enrolled in a tribe.

Turning 18: Extended Foster Care and Transition Jurisdiction

Extended Foster Care lets eligible young people stay in foster care until age 21. Young people in Extended Foster Care are called nonminor dependents. Nonminor dependents are young adults with adult rights. You continue to receive court oversight, case management, placement support, and transition planning if you are a nonminor dependent in Extended Foster Care.[45]

To participate, you generally must meet at least one of these conditions, and you can meet the first four in combination:[46]

- Completing high school or an equivalent program;
- Enrolled in college, community college, or a vocational education program;
- Employed at least 80 hours a month;
- Participating in a program that helps you get a job or remove barriers to employment; or
- Unable to do any of the above because of a documented medical or behavioral health condition.

If you are on probation

You may be eligible for Extended Foster Care if you were a ward in a foster care placement on your 18th birthday. Once the court determines that your rehabilitative goals are met and wardship is no longer required, it can move your case from delinquency jurisdiction to transition jurisdiction, and you become a nonminor dependent.[47]

Probation youth can participate in Extended Foster Care through one of three jurisdictional statuses: transition jurisdiction, dependency jurisdiction, or continued delinquency jurisdiction.[48]

Before the court ends delinquency jurisdiction for a ward who is 18 or older and subject to a foster care placement order, probation must tell you about your options, including your right to reenter foster care and your right to petition the court to resume transition jurisdiction. Probation must make sure you had a chance to confer with your attorney, make sure you are present at the hearing, submit your 90-day transition plan, and give the court written verification that you received the documents and services the law requires.[49]

Leaving and coming back

If you leave, you can come back. After the court dismisses jurisdiction, it keeps general jurisdiction over you until you turn 21 so that you can return. You, or the agency on your behalf, can file a petition to resume dependency jurisdiction or to assume or resume transition jurisdiction. [50] If you are incarcerated, you may be able to reenter after your release.

Two forms come up often. The SOC 162 is the mutual agreement you sign to enter Extended Foster Care. The SOC 163 is the voluntary reentry agreement you sign if you leave Extended Foster Care and want to come back.[51] You do not have to already be meeting one of the four or five participation conditions (listed above) on the day you ask to reenter. You need to be willing to meet one within a reasonable time.

Where you can live

Housing options include staying in any of the following:

- The home of a relative,
- The home of a nonrelative extended family member,
- The home of a resource family, or a certified foster family agency home;

- A Transitional Housing Placement Program for Nonminor Dependents, (THPP-NMD) which offers a host family, a single site, or a remote site; or
- A Supervised Independent Living Placement (SILP), where you live on your own in an apartment, a room and board arrangement, or a college dorm.

In a Supervised Independent Living Placement, you can receive the full foster care rate directly.[52]

Money, Health Coverage, and School Supports

- Independent Living Program (ILP). If you are 16 to 21, you can participate in ILP for help with school, work, housing, budgeting, driver's training, and daily living skills. A caregiver cannot stop you from attending as a punishment. Ask your social worker or probation officer for a referral to the county ILP Coordinator.[53]
- Medi-Cal until age 26. If you were in foster care on or after your 18th birthday, including in a probation-supervised foster care placement, you qualify for free, full-scope Medi-Cal until you turn 26, no matter how much money you make.[54]
- Chafee Grant. Current and former foster youth who were in foster care between their 16th and 18th birthdays may receive up to $5,000 per year for college or career and technical training, up to age 26.[55]
- Priority registration. Current and former foster youth receive priority registration at the California Community Colleges and the California State University.[56]
- Your money and your credit. You have the right to keep a bank account and manage your own income, to work and build job skills, and, if you are 14 to 17, to receive a free credit report each year from each of the three major credit bureaus, with help interpreting it and fixing any errors.[57]
- Juvenile fees are gone. California has abolished juvenile administrative fees and discharged the outstanding debt. You and your family should not be billed for your detention, your public defender, electronic monitoring, drug testing, or probation supervision. If you receive a bill for those fees, tell your attorney.[58]
- Restitution is different. Court-ordered restitution to a victim is not an administrative fee, and you still owe it.[59] But an unpaid restitution order does not stop your record from being sealed.[60]

Your Responsibilities on Probation or Supervised Release

Your exact responsibilities depend on your court orders, your probation terms, and your release conditions. Ask your attorney and your probation officer to explain your rules in writing. You may be required to:

- Follow all court orders and probation terms.
- Meet with your probation officer and attend your court hearings.
- Go to school, work, treatment, counseling, or programs the court ordered.
- Follow your placement rules or release conditions.
- Tell your probation officer, social worker, and attorney if your address, placement, school, job, or phone number changes.
- Avoid new arrests or law violations.
- Participate in case planning and Child and Family Team meetings.
- If you are in Extended Foster Care, meet monthly with your social worker or probation officer, report changes in placement or income, work on your Transitional Independent Living Plan, and attend your six-month review hearings.

If you cannot follow a rule because of transportation, housing instability, a disability, a school or work conflict, caregiving responsibilities, safety concerns, or another serious barrier, tell your attorney as soon as possible. Do not let it go or wait until you talk to them next. Your attorney may be able to ask the court or the probation department for help, for a change in your conditions, or for a plan that fits your actual life.

Getting Your Case Dismissed and Your Record Sealed

If you satisfactorily complete informal supervision or a term of probation, the court must dismiss your petition and must order your records sealed at the juvenile court, law enforcement agencies, the probation department, and the Department of Justice. Once the petition is dismissed, the arrest and the proceedings are treated as though they never happened, and you may answer questions from employers, schools, and others accordingly.[61]

A few things worth knowing:

- Satisfactory completion means you had no new finding of wardship or conviction for a felony, and no misdemeanor conviction involving fraud, forgery, or dishonesty, during your supervision, and that you substantially complied with the reasonable orders within your capacity. The court cannot extend your probation just to delay your eligibility for sealing.[62]
- An unpaid restitution order, restitution fine, or restitution fee does not count as unsatisfactory completion.[63]

- The court cannot seal or dismiss if the petition was sustained for an offense listed in Section 707(b) that you committed when you were 14 or older, unless that finding was dismissed or reduced.[64]
- If you completed a diversion or informal supervision program before a petition was ever filed, the probation department must seal those records.[65]
- Sealing records has limits. You must still pay restitution and court-ordered fines, and the military and some federal agencies may not recognize sealing. If you plan to enlist or apply for a federal job, ask a lawyer about what you are required to disclose first.[66]

What to Do If Child Welfare and Probation Are Not Coordinating

If your placement, your school, your services, or your court dates are falling through the cracks, speak up early. Ask for a meeting, and ask these questions:

- Who is the "lead agency" in my case?
- Who is responsible for my placement and my case plan?
- Who makes sure I receive mental health, education, Independent Living Plan, housing, and transition services?
- Can my attorneys talk to each other before my next hearing?
- When can a Child and Family Team (CFT) meeting be convened to help everyone on my support team coordinate? Can I have a copy of the CFT plan and my Transitional Independent Living Plan (TILP)? What is the timeline for starting the supports or services?
- Can the court clarify, on the record, who is responsible for my services?

County probation and child welfare agencies must use a joint written protocol for young people who may fall under both dependency and delinquency jurisdiction. That protocol has to describe how the two agencies assess your case, how they make joint recommendations, how the judges communicate with one another, and how the county collects data on whether the protocol is working.[67] Services should not be duplicated in a way that leaves you confused about who is responsible.

Who to Contact for Help

- Your attorney. Ask your attorney to explain your rights, your court status, your probation terms, and what to do if your services are not being provided.
- Your social worker or probation officer. Ask who is responsible for your placement, case plan, transition plan, and services.

- **Your CASA, mentor, education rights holder, tribal representative, school counselor, coach, or another trusted adult.** Ask for assistance with your placement, including identifying and securing housing if you are in Extended Foster Care, and identifying and receiving your case plan, transition plan, and services.
- **Office of the Foster Care Ombudsperson.** Contact this office if you are in foster care, in probation-supervised foster care, or in a licensed or certified children's placement and you believe your rights are being violated. Call 1-877-846-1602 or file a complaint at www.fosteryouthhelp.ca.gov.
- **Office of Youth and Community Restoration Ombudsperson.** Contact this office if you are in juvenile hall, camp, ranch, a secure youth treatment facility, or another juvenile facility. Call 1-844-402-1880 or email OYCRombuds@chhs.ca.gov. Your contact is confidential, and you cannot be punished or threatened for making a complaint.
- **County ILP Coordinator or Transitional Housing Coordinator.** Ask your social worker or probation officer for a referral. If you need help finding the right person, email the CDSS Transition Age Youth Policy Unit at TAYPolicy@dss.ca.gov with your name, email, and the county where you live or exited care.
- **Alliance for Children's Rights.** If you are in Los Angeles County, visit allianceforchildrensrights.org for help with anything else.

Words You May Hear

- **241.1 assessment.** The joint report probation and child welfare must prepare for the judge when you appear to fall under both systems.
- **Child and Family Team (CFT).** The group of people who meet to coordinate your case and support you. You can ask for a meeting if your case plan is not meeting your needs.
- **Dependent.** A young person the juvenile court has taken jurisdiction over under Section 300 because of abuse, neglect, or risk of harm at home.
- **Dual status youth**. A young person who is connected to both the child welfare system and the juvenile justice system at the same time, or who moves back and forth between them.
- **Education rights holder (ERH).** The adult the court appoints to make education decisions for you when a parent's rights are limited. At 18, you generally hold your own education rights.
- **Nonminor dependent (NMD).** A young person 18 to 21 in Extended Foster Care under the placement and care responsibility of child welfare, probation, or a tribe.

- **Transitional Independent Living Plan (TILP).** Your TILP is a plan you help build and update at least every six months.
- **Transition jurisdiction.** The court status that lets a former ward remain in Extended Foster Care as a nonminor dependent after wardship ends.
- **Ward.** A young person the juvenile court has taken jurisdiction over under Section 601 or 602 because of a status offense or a law violation.

Sources:

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3. Cal. Welf. & Inst. Code § 241.1(a); Cal. Rules of Court, rule 5.512
4. Cal. Welf. & Inst. Code § 241.1(e)(5)(A)
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7. Cal. Welf. & Inst. Code § 16001.9(a)
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13. Cal. Welf. & Inst. Code § 625(c)
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18. Cal. Welf. & Inst. Code § 224.71
19. Cal. Welf. & Inst. Code § 224.71(a)-(b)
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34. Cal. Educ. Code § 48853.5(f)
35. Cal. Educ. Code § 48853.5(c)
36. Cal. Educ. Code § 51225.2(b), (d)
37. Cal. Educ. Code § 51225.1(a), (e), (n)
38. Cal. Educ. Code § 48645.5(a)-(b)
39. Cal. Educ. Code § 48645.5(d)
40. Cal. Educ. Code § 48647(a)-(b), (e), (g)
41. Cal. Educ. Code § 49069.5(g)-(h)

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43. Cal. Welf. & Inst. Code § 16001.9(a)(12), (14)-(15)
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45. Cal. Welf. & Inst. Code § 11400(v)
46. Cal. Welf. & Inst. Code § 11403(b)
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59. Cal. Welf. & Inst. Code § 730.6
60. Cal. Welf. & Inst. Code § 786(c)(2)
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