

## Dependency Proceedings—Title IV-E Findings: Legal Citations\*

Revised July 15, 2010

<b>FEDERAL</b>	<b>CALIFORNIA</b>	<b>RESULT IF NO FINDING</b>
Title IV-E of the Social Security Act, 42 U.S.C. § 670 et seq.	<b>Dependency</b> Welf. & Inst. Code (WIC), § 300 et seq.	
<b>Detention/Removal Hearings</b>		
<b>A.</b> Court must make finding that continuance in the home of the parent or legal guardian would be contrary to the child’s welfare. (42 U.S.C. § 672(a)(1)-(2).  This finding must be made at the time of the first court ruling authorizing removal of the child from the home. (45 C.F.R. § 1356.21(c).)	Continuance in the home of the parent or legal guardian is contrary to the child’s welfare. (WIC, §§ 319(b), 11401(b)(3); Cal. Rules of Court, rule 5.678(a)(2).  This finding must be made at the time of the first court ruling authorizing removal of the child from the home. (WIC, § 319(c).)	<b>Never</b> eligible for title IV-E funding (45 C.F.R. § 1356.21(c).)
<b>B.</b> Court must order that placement and care are the responsibility of the state agency or any other public agency with whom the responsible state agency has an agreement. (42 U.S.C. § 672(a)(1)-(2); 45 C.F.R. § 1356.71(d)(1)(iii).)	Temporary placement and care are vested with the child welfare agency pending disposition or further order of court. (WIC, § 319(e); Cal. Rules of Court, rule 5.678(d).)	No funding until findings are made.
<b>C.</b> Court must make finding that reasonable efforts have been made to prevent or eliminate the need for removal. (42 U.S.C. §§ 671(a)(15), 672(a)(1)-(2); 45 C.F.R. § 1356.21(b)(1).)  This finding must be made within 60 days of the date of removal. (45 C.F.R. § 1356.21(b)(1).)	Reasonable efforts have been made to prevent or eliminate the need for removal. (WIC, §§ 319(d)(1), 11401(b); Cal. Rules of Court, rule 5.678(c)(1).)	<b>Never</b> eligible for title IV-E funding. (45 C.F.R. § 1356.21(b)(1)(ii).)
<b>Case Review/Status Review Hearings — D Findings</b>		
Court must review child’s status and safety no less frequently than once every six months from <b>the date the child entered foster care</b> , in order to make the recommended legal findings as set forth on side two, sections II and IV (42 U.S.C. §§ 671(a)(16), 675(5)(B); 45 C.F.R. §§ 1355.20, 1355.34(c)(2)(ii).)	Periodic status reviews must be held, and the required findings made, no less frequently than every six months, with the first status review being held at the time of the initial dispositional hearing. (WIC, §§ 361(e), 366(a), 366.3, 11400(i), 11404.1; Cal. Rules of Court, rule 5.710(a).)	Failure to make findings will have financial consequences due to noncompliance with the state plan.
<b>Permanent Plan Hearings — D Findings</b>		
Court must hold a permanency hearing to select a permanent plan no later than 12 months from <b>the date the child entered foster care</b> , and must hold subsequent permanency plan hearings every 12 months thereafter. (45 C.F.R. §§ 1355.20, 1356.21(b)(2)(i); 42 U.S.C. § 675(5)(C), (F).)  For a case in which no reunification services are offered, the permanency hearing must be held within 30 days of disposition. (45 C.F.R. § 1356.21(h)(2).)	A permanency planning hearing must be held, and the required findings made, within 12 months from <b>the date the child entered foster care</b> , and subsequent permanency hearings must be held every 12 months thereafter. (WIC, §§ 361.5(f), 366.21(f), 366.21(g), 366.22, 366.3, 11400(j), 11404.1; Cal. Rules of Court, rule 5.715.)	Funding stops unless findings are made.

**Definition of “date the child entered foster care”:**

**Dependency**—The date the child entered foster care is the earlier of the first finding of child abuse or neglect (jurisdictional finding) or 60 days after the child is physically removed from the home of the parent(s) or legal guardian(s). (WIC, § 361.49); Cal. Rules of Court, rule 5.502(9)(A).)

\*This chart is based on laws in effect at the time of publication — July 15, 2010. Federal and state laws can change at any time. The chart was compiled by the Judicial Review and Technical Assistance project of the Administrative Office of the Courts’ Center for Families, Children & the Courts, 455 Golden Gate Avenue, San Francisco, California 94102, 415-865-8836.

## Dependency Proceedings—Basic Title IV-E Findings to Ensure Compliance

**Findings and orders must be based on sufficient supporting evidence, presented to the court by the county agency.**

### **I. Detention/Removal Hearings-Make the following:**

- A. Continuance in the home is contrary to the child's welfare.
- B. Temporary placement and care are vested with the social services agency.
- C. Reasonable efforts have been made to prevent removal.

### **II. Prepermanency Hearings-Make the following:**

- D1. The child's placement is necessary. The child's current placement is appropriate.
- D2. The county agency has complied with the case plan by making reasonable efforts to return the child to a safe home & to complete whatever steps are necessary to finalize the permanent placement of the child.
- D3. The extent of progress made toward alleviating or mitigating the causes necessitating placement has been: by the father \_\_\_\_\_, by the mother \_\_\_\_\_.
- D4. The likely date by which the child may be returned to and safely maintained in the home or placed for adoption, appointed a legal guardian, placed permanently with a relative, or placed in an identified placement with a specific goal is \_\_\_/\_\_\_/\_\_\_.
- D7. For child 16 years of age or older: The court finds that the services set forth in the case plan include those needed to assist the child in making the transition from foster care to independent living.

### **III. Permanency Hearing- Make the following:**

- D1. The child's placement is necessary. The child's current placement is appropriate.
- D2. The county agency has complied with the case plan by making reasonable efforts to return the child to a safe home & to complete whatever steps are necessary to finalize the permanent placement of the child.
- D3. The extent of progress made towards alleviating or mitigating the causes necessitating placement has been: by the father \_\_\_\_\_, by the mother \_\_\_\_\_.
- D5. The plan selected below is appropriate:
  - a. An immediate return to the home is ordered as the permanent plan; **or**
  - b. The continuation of reunification services and the setting of a further permanency review hearing are ordered. There is a substantial probability that the child will be returned within the next six months and (1) the parent has consistently and regularly contacted and visited the child, (2) made significant progress in resolving the problems that led to the child's removal, *and* (3) demonstrated the capacity and ability to complete the treatment plan objectives and provide for the child's safety, protection, physical and emotional well-being, and special needs. There is a compelling reason for determining that a hearing held under Welf. & Inst. Code § 366.26 is not in the best interest of the child. The court informed all parents present at time of the hearing and further advises all parents that if the child is not returned to the custody of a parent at the next permanency hearing a proceeding under Welf.& Inst. Code § 366.26 may be instituted which could result in the termination of parental rights and adoption; **or**
  - c. Reunification services are terminated. Based upon the clear and convincing evidence already presented, a compelling reason exists for determining that a hearing held under Welf. & Inst. Code § 366.26 is not in the best interest of the child. The following permanent plan is ordered:
    - (1) placement with \_\_\_\_\_, a fit and willing relative, with a specific goal of \_\_\_\_\_. (*Provide the relative's name and select a goal, e.g., kinship adoption; legal guardianship; independent living with identification of a caring adult to serve as a lifelong connection; assisted adult living with identification of a caring adult to serve as a lifelong connection.*), *or*
    - (2) placement with \_\_\_\_\_, with a specific goal of \_\_\_\_\_. (*Provide the name of the placement and select a goal e.g., return home; adoption; legal guardianship; placement with a relative; a less restrictive foster setting; independent living with identification of a caring adult to serve as a lifelong connection; assisted adult living with identification of a caring adult to serve as a lifelong connection.*); **or**
  - d. Reunification services are terminated. There is clear & convincing evidence that reasonable services were provided or offered to the parents. A hearing is set under Welf. & Inst. Code § 366.26.
- D6a.  The likely date by which the agency will finalize the permanent plan is \_\_\_/\_\_\_/\_\_\_ (*Use this finding only for a child with a plan of immediate return home under D5a.*)
- D6b.  The likely date by which the child may be returned to and safely maintained in the home *or* placed for adoption, appointed a legal guardian, placed permanently with a relative, or placed in an identified placement with a specific goal is \_\_\_/\_\_\_/\_\_\_ (*Use this finding only when the court continues reunification services under D5b.*)
- D6c.  The likely date by which the child's specific goal will be achieved is \_\_\_/\_\_\_/\_\_\_ (*Use this finding only for a child with a specific goal under D5c.*)
- D6d.  The likely date by which the child may be placed for adoption, appointed a legal guardian, or placed permanently with a relative or in an identified placement with a specific goal is \_\_\_/\_\_\_/\_\_\_ (*Use this finding only when the court terminates reunification services under D5d.*)
- D7. For child 16 years of age or older: The court finds that the services set forth in the case plan include those needed to assist the child in making the transition from foster care to independent living.

### **IV. Postpermanency Hearing-Make the following:**

- D1. The child's placement is necessary. The child's current placement is appropriate.
- D2. The county agency has complied with the case plan by making reasonable efforts, including whatever steps are necessary to finalize the permanent placement of the child.
- D5. The permanent plan selected below is appropriate and ordered:
  - a. An immediate return to the home; **or**
  - b. Adoption as ordered at the hearing held under Welf. & Inst. Code § 366.26; **or**
  - c. Legal guardianship as ordered at the hearing held under Welf. & Inst. Code § 366.26 with a specific goal of \_\_\_\_\_ (*Select a goal, e.g., dismissal of dependency or adoption.*); **or**
  - d. Based upon the clear and convincing evidence already presented, a compelling reason exists for determining that a hearing held under Welf.& Inst. Code § 366.26 is not in the best interest of the child and the following permanent plan is ordered:
    - (1) placement with \_\_\_\_\_, a fit and willing relative, with a specific goal of \_\_\_\_\_. (*Provide the relative's name and select a goal, e.g., kinship adoption; legal guardianship; independent living with identification of a caring adult to serve as a lifelong connection; assisted adult living with identification of a caring adult to serve as a lifelong connection.*), *or*
    - (2) placement with \_\_\_\_\_, with a specific goal of \_\_\_\_\_. (*Provide the name of the placement and select a goal, e.g., return home; adoption; legal guardianship; placement with a relative; a less restrictive foster setting; independent living with identification of a caring adult to serve as a lifelong connection; assisted adult living with identification of a caring adult to serve as a lifelong connection.*).
- D6a.  The likely date by which the agency will finalize the permanent plan is \_\_\_/\_\_\_/\_\_\_ (*Use this finding for a child with a plan of immediate return home under D5a or adoption under D5b.*)
- D6c.  The likely date by which the child's specific goal will be achieved is \_\_\_/\_\_\_/\_\_\_ (*Use D6c finding only for a child with a specific goal under D5c or D5d.*)
- D7. For child 16 years of age or older: The court finds that the services set forth in the case plan include those needed to assist the child in making the transition from foster care to independent living.