

## **Continuum of Care Reform: Legal Update**

2017

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### **Training Overview & Objectives**

- Overview & background of CCR.
- Understanding of new legal requirements and duties related to achieving legal permanence.
- New groundwork for congregate care and the new limitations of its use.
- Understanding of the new role of the Child and Family Team, it's purpose and it's impact on the case plan.

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### **AB 403-Continuum of Care Reform**

Establishes the frame work for the codification of a number of recommendations included in the CDSS report, *California Child Welfare Continuum of Care Reform*. (CCWCCR)  
[http://www.cdss.ca.gov/cdssweb/entres/pdf/CCR\\_LegislativeReport.pdf](http://www.cdss.ca.gov/cdssweb/entres/pdf/CCR_LegislativeReport.pdf)

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**SB 794-Preventing Sex Trafficking & Strengthening Families Act**

Brings state into compliance with Preventing Sex Trafficking and Strengthening Families Act (Public Law 113-183)

**CSEC/APPLA/Reasonable Prudent Parent/No Long Term Foster Care**

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Child Welfare Departments still have approximately 3,000 youth in group homes for more than one year, and approximately 1,000 of these youth have been in a group home for more than five years.

(CCWCCR Report p. 8)

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**Why are outcomes bad?**

**What are your thoughts?**

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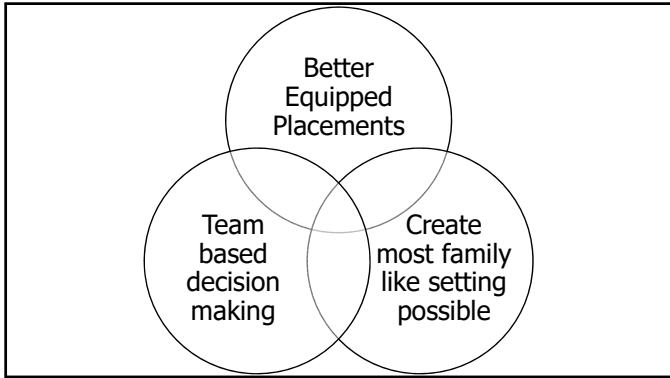
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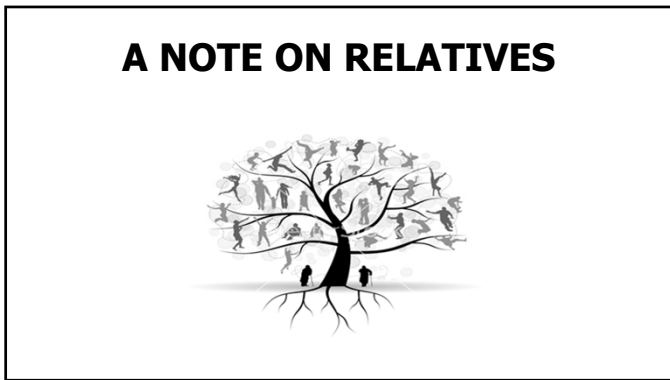
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### Diligent Search Efforts Required



- At any permanency hearing in which the court terminates reunification services, or at any postpermanency hearing for a child not placed for adoption, the court shall find that the agency...has made diligent efforts to locate an appropriate relative... Family Code §7950

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**Diligent Efforts Defined.** see CA Rule of Court 5.695

**Concurrent planning mandated.**  
§358.1(b); 366.21(a)(3)(C); 16501.1(f)(10)

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- Relative preference still the same (§361.3)
- Linchpin of relative placement decision is best interests of the child. *Alicia B. v. Superior Court* (2004) 116 Cal.App.4th 856, 862-863

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§ 16002-sibling relationship expanded from a "child" to "a *person* related to the child in care"



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**Redefined reasonable and prudent parent standard (RPPS) §362.05**

- 1. Caregivers shall be trained in the RPPS
- 2. Defines RPPS-Careful and sensible parental decisions that maintain health and safety
- 3. Encouraging the emotional and developmental growth of child
- 4. Every child entitled to participate in age appropriate extracurricular, enrichment and social activities

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**PERMANENCE**



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**Ensuring Permanence**

At permanency and postpermanency hearing, Court shall make **factual finding identifying any barriers** to achieving the permanent plan and identify a permanent plan. § 366.21(g)(5)(A) & 366.3(h)(1).

At post permanency hearing, if child is under 16, the report must identify the barriers to achieving the permanent plan and the agency's efforts to address them. § 366.3(h)(4).

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**What are barriers to Permanence in your experience?**

- Caretaker unwilling...
- Child can't stabilize...
- Child objects...
- Recently placed in a new home...
- Adoptability issues...

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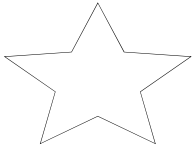
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**Legal Permanence We're Familiar With**



- Home with Parents (first priority)
- Adoption
- Legal Guardianship
- Tribal Customary Adoption

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**A New Permanent Plan is Here...**

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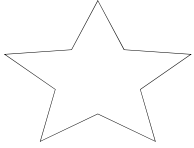
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**A Permanent Plan of placement with a fit and willing relative.**

§366.26(c)(4)(B)(i)

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**What does this mean?**

- Still subject to periodic review under §366.3.
- Still need to consider setting §366.26 hearing. §366.3(h)
- Don't need to make factual finding identifying barriers to permanence at 366.3. §366.26(c)(4)(A); §366.3(h)(1)
- Also permanent plan for NMD's. §366.31(e)

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**NO MORE APPLA IF UNDER 16!!!**

Court must order a permanent plan other than Another Planned Permanent Living Arrangement. § 366.21(g)(5)(A); § 366.25.  
*(exception for ages 16 and above)*

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**NEW WORLD APPLA**

**16 years old ≤**

This Won't Necessarily Be Easy...

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**1. Must ask the child about their desired permanency outcome.**

§366.3(h); §366.31(e); §727(a)(5)(A).

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**2. Make a finding identifying barriers to permanence and make a judicial determination as to why APPLA remains best permanency option for the child.**

§ 366.3(h); § 366.31(e); § 727.3(a)(5)(B).

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**3. State on the record the compelling reason why it is not in the child’s best interest to return home, be placed for adoption, LG, TCA, or with a fit and willing relative.** § 366.3(h); § 366.31(e); § 727.3(a)(5)(C).

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**4. Ongoing and intensive efforts to return the child to a safe home and to complete whatever steps are necessary to finalize the permanent placement of the child...** § 366(a)(1)(B); § 727.2(e)(2).

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**New Reporting Requirements for APPLA**

Social Study must include:

- ✓ Intensive and ongoing efforts to establish permanence;
- ✓ Steps taken to ensure caregiver is following reasonable and prudent parent standard; and
- ✓ If child has opportunities to engage in appropriate activities, including consulting with child.  
§366.3(h)(3)(A)-(B); §366.31(h)(1); §706.5.

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**IF ACHIEVING LEGAL PERMANENCE NOT FEASIBLE AT THAT HEARING...**



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**LONG TERM FOSTER CARE PLACEMENT IS NOT ACCEPTABLE AS A PERMANENCY PLAN**



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**If child in non relative home/Group Home (STRTC)**

Court must order placement in foster care with an identified Permanent Plan. §366.26(c)(4)(B)(iii)

Regardless of age, can't remove if it would be seriously detrimental to the emotional well-being of the child. § 366.26(c)(4)(B)(ii)

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**HOW TO MAKE THE FINDING AT a permanency hearing, 366.26 or 366.3**

- PLACEMENT IN FOSTER CARE WITH A PERMANENT PLAN OF \_\_\_\_\_:
- Placement with a fit and willing relative;
- Adoption;
- Legal Guardianship; or
- Tribal customary adoption for an Indian child.

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**NOT**

Placement with \_\_\_\_\_ and a specific goal of \_\_\_\_\_.

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**Placement in a group home, or, on and after January 1, 2017, a short-term residential treatment facility, shall not be the identified permanent plan for any child or nonminor dependent. §16501(i)(2).**



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**Independent Living**



**Successful Adulthood**

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**REPAIRING OUT OF HOME CARE**



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**A NEW ERA FOR CONGREGATE CARE:**

**GROUP HOMES AS WE KNOW THEM  
ARE GONE...**



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Now:

**“Short Term Residential  
Treatment Center”**

(Short Term Residential Therapeutic Program)

§ 11400(ad)

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**Timelines**

- CDSS will establish new licensure and rate systems for STRTPs beginning January 1, 2017. § 11463.01
- The accreditation of STRTPs will start in 2016 and is expected to take 2-3 years. (GH’s can apply for extensions)
- Children are expected to start stepping down from group homes over 1-2 years into family-based care.

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**Selection Criteria; (§11462.01(a))**

1. Doesn’t require inpatient care;
2. Assessed as requiring level of services provided by STRTP in order to maintain safety and well being.
3. And meets one of the following:
  - A. Medical necessity criteria for medi-cal
  - B. Seriously emotionally disturbed (see §5600.3)
  - C. Assessed as requiring level of services
    - i. Eg.: CSEC/sex offender/gang affiliation

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**If the placement is longer than six months:**

**1. the placement shall be approved by the deputy director or director of the county child welfare department *and***

**2. the agency must consider the recommendations of the child and family team and document the rationale for any inconsistencies between the case plan and the child and family team recommendations. (§361.2(e)(9); §16501.1).**

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**For Probation Youth:**

- Must be approved for youth 13 years of age and older by chief probation officer of county probation department, every *12 months*
- The rest of section 361.2(e)(9) applies

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**Anticipated that most children in current RCL 10-12 will no longer qualify for group home care**

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**Counties are expected to mitigate the risk of displacing youth in GH's by implementing strategies to increase the number and quality of Home Based Family Care.** (ACL 16-65 p. 2)

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### **FFA's**

- Existing rate structure for FFA's sunsets
- New payment structure that provides for treatment, intensive treatment and therapeutic foster care programs
- Probation to work with FFAs to develop strategies to create FFA homes for probation youth.

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### **CASE PLANNING**



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**Case Plan must emphasize transitioning out of Congregate Care**

**(§16501.1)** (must be updated at least semiannually §361.2 and 16501.1(d)(2))

- ✓State the need
- ✓The plan to transition out
- ✓The timeline

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**One of CCR's most fundamental principles is that child welfare services are most effective when delivered in the context of a child/youth and family-centered CFT...**

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**...that shares responsibility to assess, plan, intervene, monitor and refine services over time.**

- ACL 16-84

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**CHILD AND FAMILY TEAM**

Builds on principle of *Katie A. v. Bonita* settlement

All foster youth have access to child and family team

Replaces reliance solely on a single social worker

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**If don't have one, identify team membership as soon as possible...**

**Shall be convened by the placing agency within the first 60 days of coming into care...**

(ACL 16-84, p. 5)

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**Held every 90 days for youth in placements receiving Intensive Care Coordination, Intensive Home-Based Services or Therapeutic Foster Care**

(ACL 16-84, p. 5)

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**For other children and youth, no less than once every six months, and as frequently as needed to address emerging issues as decided by CFT members**

(ACL 16-84, p. 6)

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**What does a CFT do?**

Identify the strengths and needs of the child or youth and his or her family, and to help achieve positive outcomes for safety, permanency, and well-being. §16501(a)(4); §706.6

- ✓Input into the development of the case plan
- ✓Input into the placement decision

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**Who makes up team (§16501(a)(4)(B)):**

The caregiver;	The placing agency caseworker;	FFA or STRTC representative where child placed;
County mental health representative;	If eligible, Regional Center representative;	Youth's tribe or Indian custodian

**Any party who is represented by an attorney may consult with his or her attorney regarding the process.**

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**May Also Include:**

- Formal supports, such as substance abuse counselor;
- Extended family and informal support persons, such as friends, coaches, faith-based connections, and tribes;
- The child or youth and his or her family may request specific persons be included.

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**CaFT+Case Plan+Judicial Oversight=Consensus**

- Agency shall consider recommendations of child and family team and document rationale for inconsistencies between case plan and CaFT recs. § 16501.1(a)(3).
- If out of home placement is used to attain case plan goals, the case plan must consider recommendations of CaFT. § 16501.1(c).
- Case plan must be developed considering recs of CaFT. § 16501.1(g)

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**16→14**

New age requirement for determination that are services are provided to assist child to make the transition to successful adulthood. § 366.3(e)(10) §16501.1(g)(15)(B).

And checking credit history. §10618.6

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**366.22(a)(1) and (b) FR for minor parents and NMD parents**

- Court must take into account particular barriers of a minor or nonminor dependent parent.
- If at 18 month permanency hearing, court can continue services if parent making significant and consistent progress. §366.22(b)

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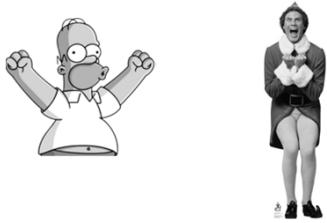
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***Now...  
LET'S DO TABLE DISCUSSIONS!***



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***QUESTIONS...***

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