Exploring the Office of the Ombudsperson for Foster Care and the Foster Youth Bill of Rights

A voice for foster children and youth

January 2020
Logistics

- Webinars are recorded and archived at http://kids-alliance.org/webinars/
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Office of the Foster Care Ombudsman

A voice for foster children and youth
The Office of the State Foster Care Ombudsperson shall be established as an autonomous entity within the department for the purpose of providing children who are placed in foster care, either voluntarily or pursuant to Section 300 and Sections 600 and following, with a means to resolve issues related to their care, placement, or services.

Cal. Welf. & Inst. §16161

Added by Stats. 1998, Ch. 311, Sec. 66. Effective August 19, 1998.
What is an Ombudsperson?

An ombudsperson is an impartial, neutral, and independent person with the authority and responsibility to receive, investigate, and informally address and resolve complaints about government actions and when appropriate make systemic recommendations based on findings.
Office of Foster Care Ombudsperson

Provides a **voice** to speak and act on behalf of foster children and youth

Acts as an **independent forum** for the review and informal resolution of complaints made by or on behalf of children in foster care regarding their care, placement and services

Provides children, youth, caregivers, social workers and probation officers with **information** on the rights of children and youth when placed in foster care

Maintains a **toll free telephone number** which foster children and youth or any concerned adult may call from anywhere in California to express their concerns and complaints
Ombudsperson’s Office Responsibilities

- **Resolve** complaints about foster care rights and issues related to care, placement, and services.
- **Train** on Foster Youth Rights and Reasonable and Prudent Parent Standard (RPPS).
- **Provide** Foster Youth Verification Letters for emancipated foster youth.
- **Share** resources and information about local service providers.
- **Recommend** policy and practice changes to improve the child welfare system.
- **Report** annual findings to the Legislature and stakeholders.
Ombudsperson’s Office Responsibilities

- Disseminate information and provide training and technical assistance on the rights of children and youth in foster care, reasonable and prudent parent standards and the services provided by the Office.
- Investigate and attempt to resolve complaints made by or on behalf of children placed in foster care, related to their care, placement or services.
- Decide, in its discretion, whether to investigate a complaint, or refer complaints to another agency for investigation.
- Notify the complainant of the intention to either investigate or not investigate.
- Update the complainant on the progress of the investigation.
- Document the number, source, origin, location and nature of complaints.
- Compile and make available to the Legislature all data collected over the year and present data on an annual basis.
- Develop information related to the rights of children and youth in foster care.

Cal. Welf. & Inst. §16164
Ombudsperson May . . .

- Conduct whatever investigation deemed necessary
- Attempt to resolve the complaint informally
- Submit a written plan to the relevant state or county agency recommending a course of action to resolve the complaint
  - If the ombudsperson makes a written recommendation, the state or county agency shall submit a written response to the ombudsperson within 30 business days
- Have access to copies of any record of a state or local agency, and contractors with state and local agencies and may meet or communicate with any foster child in their placement or elsewhere

Cal. Welf. & Inst. §16165
Information Sharing

- A toll-free number shall be established for the office.
  
  1(877)846-1602
  fosteryouthhelp@dss.ca.gov

- Social workers/Probation officers shall provide foster children with the toll-free number for the office and verbal or written information regarding the existence and purpose of the office.

Cal. Welf. & Inst. §16167
Investigating Complaints

- The OFCO works to resolve complaints informally.

- Access to copies of any record of a state or local agency, and contractors with state and local agencies.
  - The OFCO staff may review the statewide child welfare database, direct service logs, and court documents, as well as conduct interviews on site or via telephone.

- The OFCO is authorized to meet or communicate with any foster child in their placement or elsewhere.
Investigating Complaints

- Complaint is received and screened
- Conducts Interviews and Case Reviews and Site Visits
- Analyzes Facts
- Cross-reports to Other Agencies (CCL, CPS)
- Formulates a Process for Resolution
- Provides Formal Recommendations
- 30 Day Response Period
- Closure to Complaining Party
Number of Complaints 2019

- 15,000+/- calls per year
- 798 General Complaints
- 235 Youth Complaints
- 1346 Information and Referrals
- 2206 Former Foster Youth Verification Letters
- 180 Background Check Requests
- 43 Controlled Correspondences
- 74 Publication Requests
- 62 Training Requests
Sources of Complainants

- Youth: 235
- Parents: 216
- Relatives: 119
- Caregivers: 79
- Professionals: 21
- Decline to state: 340
- Other: 23
Types of Complaints

- Child Welfare Practice
- Parent Concerns
- Foster Parent Concerns
- Relative Placement
- STRTP-Foster Youth Rights Violations or Facility Conditions
- Extended Foster Care
- Reasonable and Prudent Parent Standard
- 14 day removal notice (AB 2247)
- Resource Family Approval Process/Timeline
- Payment Issues
- CPS Investigations
Most Frequent Complaint Issues

- Social Work Practice: 355
- Placement: 336
- Bill of Rights Violations: 200
- Emergency Response: 135
- Visitation: 126
- Reunification: 89
- Permanency: 81
- Extended Foster Care: 47
- Foster Homes: 52
- STRTP/Group Homes: 45
- Mental Health: 42
- Education: 29
- Court: 28
- Other: 130
Resolving Complaints
Resolving Complaints
Resolving Complaints
the right to live in a safe, healthy, and comfortable home, to be treated with respect, and to be free from physical, sexual, emotional, or other abuse

Foster Youth Bill of Rights
AB 1067: Foster Youth Bill of Rights Stakeholder Group

Mandate to update Foster Youth Bill of Rights
add 12 additional rights, most of which exist in other sections of the law;

reorganize and list rights thematically;

change of statutory language to consistently use the word “child” and “nonminor dependent” as well as gender-neutral pronouns

make changes that reflect the rights of Indian children under Indian Child Welfare Act;

requires that the Foster Care Ombudsperson:

- develop updated and revised materials for specific populations, available in a variety of print and online mediums, and provide trainings to stakeholders; and

- review bills and recommend updates or make any necessary changes to print and online publications and training materials
Foster Youth Bill of Rights

Knowledge and Outreach
18 years ago, the challenges that foster youth faced were different than they are today and it is critical that their rights evolve in the Foster Youth Bill of Rights accordingly.

Assembly Member Gipson on the importance of AB 175
2019 Additions to Foster Youth Bill of Rights – AB 175

- Reorganizes, clarifies, and expands the Foster Youth Bill of Rights
- Organizes the Foster Youth Bill of Rights thematically:
  - placement and wellbeing;
  - communication;
  - cultural ceremonies, extracurricular activities, and cultural competency training;
  - medical care and records;
  - education;
  - financial literacy;
  - court proceedings and records;
  - case plan development; and
  - being informed of Foster Youth Bill of Rights.

Cal. Welf. & Inst. §16001.9
Rights related to placement and wellbeing

A youth’s placement and overall wellbeing

- live in a safe home, be treated with respect, including the upholding the prevailing social and cultural standards of the child’s Indian community;
- be free from abuse;
- receive adequate clothing, grooming, and hygiene products that respect child’s culture, ethnicity, gender identity and expression;
- be placed in the least restrictive setting possible;
- be placed with a relative or NREFM if an appropriate and willing individual is available;
- not be locked in any portion of their foster care placement;
- have a placement that utilizes de-escalation and intervention techniques before involving law enforcement;
- not be detained in a juvenile detention facility based on their status as a dependent of the court; and
- have storage space for private use, and be free from unreasonable searches.
Rights related to communications

ways a youth can make and receive communications

• be provided the names and contact information social workers, probation officers, service providers, among others, and representatives designated by the youth’s tribe, and communicate with these individuals privately;
• visit and contact family members and relatives privately;
• make, send, and receive confidential calls and other electronic communications; and
• have contacts with people outside of foster care system, including tribal members if the youth is Indian.
Rights related to identity and cultural background

Youth’s participation in various cultural activities

- attend religious services, activities, and ceremonies, including engaging in traditional Native American Religious practices, if the youth is Indian;
- participate in enrichment activities, and access these activities via computer technology and the internet;
- have fair and equal access to services, placement, care, treatment, and benefits, and not be subjected to discrimination or harassment on the basis of certain characteristics;
- have caregivers, social workers/probation officers, and legal counsel who have received instruction on cultural competency and sensitivity related to sexual orientation and gender identity expression; and Indian Child Welfare Act.

Cal. Welf. & Inst. §16001.9
Rights related to identity and cultural background

Youth’s participation in various cultural activities

- be placed in out-of-home care according to gender identity, regardless of the gender or sex listed in their records, be referred to by their preferred name and gender pronoun, and maintain privacy; and
- have child welfare and probation personnel, and legal counsel who have received instruction on the federal Indian Child Welfare Act and on cultural competency and sensitivity relating to, and best practices for, providing adequate care to Indian children in out-of-home care; and
- have recognition of the youth’s political affiliation with an Indian tribe or Alaskan village, as provided.

Cal. Welf. & Inst. § 16001.9
Rights related to medical care and records

Youth’s medical care and records

- access various medical services, including substance abuse, reproductive, sexual health care, and gender-affirming health and mental care services;
- view and receive medical records;
- except in emergency, be free of psychotropic medications unless prescribed by a physician or authorized by judge;
- access to age-appropriate, medically accurate information about sexual and reproductive issues; and

Cal. Welf. & Inst. § 16001.9
Rights related to medical care and records

- at any age, to consent to or decline services regarding contraception, pregnancy and perinatal care, including, but not limited to, abortion services and health care services for sexual assault without the knowledge or consent of any adult; and
- at 12 years of age or older, consent to or decline health care services to prevent, test for, or treat sexually transmitted diseases, including HIV, and mental health services, without the consent or knowledge of any adult;
- at 12 years of age or older, choose their own health care provider; and
- the confidentiality of their medical and mental records consistent with existing law.

Cal. Welf. & Inst. §16001.9
Rights related to education

Youth’s access to education services and institutions

- attend and remain in their school of origin;
- partial credits
- have access to information regarding educational options, programs, and services, including those available at the California Community Colleges, California State University Campuses, and University of California systems; and
- priority enrollment
- attend Independent Living Program classes and activities.

Cal. Welf. & Inst. §16001.9
Rights related to financial literacy

youth’s access to financial services

• maintain a bank account and manage personal income, consistent with the child’s age and developmental level;
• work and develop job skills at an age-appropriate level; and
• for children ages 14-17, receive a consumer credit report provided by the social worker or probation officer and have the SW/PO fix any inaccuracies.
Rights related to court proceedings and records

Youth's access to court proceedings and records

- be represented by an attorney in juvenile court;
- receive notice of, attend, and participate in court hearings, request the presence of interested parties, and, if the child is Indian, have a representative designated by the child’s tribe attend hearings; and
- the confidentiality of their juvenile court records.
Rights related to case plan development

youth’s case plan development

- view and receive a copy of their child welfare records, juvenile court records, and educational records;
- be involved in the development of their own case plan, including elements related to gender affirming health care, with consideration of the child’s gender identity, with special provisions for Indian children;
- review the child’s own case plan and plan for permanent placement if the child is 10 years of age or older; and
- request and participate in a child and family team meeting.
Rights related to Foster Youth Bill of Rights

youth’s access to the Foster Youth Bill of Rights

• to be informed of these rights in an age and developmentally appropriate manner by the social worker or probation officer and to be provided a copy of the rights in this section at the time of placement, any placement change, and at least once every six months or at the time of a regularly scheduled contact with the social worker or probation officer.

• to be provided with contact information for the Community Care Licensing Division of the State Department of Social Services, the tribal authority approving a tribally approved home, and the State Foster Care Ombudsperson, at the time of each placement, and to contact any or all of these offices immediately upon request regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.
Foster Youth Bill of Rights

- Provides that the rights described are broad expressions of the rights of children in foster care and are not exhaustive of all rights set forth in other sources of law.

- Continues to provide that the rights described do not require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

- Provides DSS with the authority to enforce implementation of the Foster Youth Bill of Rights at children’s residential facilities by promulgating regulations related to the personal rights of children and nonminor dependents in foster care.
Foster Youth Rights
You Have Rights Too!
Questions

• To submit questions, click on the “Questions” panel, type your question, and click “Send”

• PowerPoint slides, webinar recording, and certification of participation will be posted at www.kids-alliance.org/webinars
Contacting the Ombudsperson’s Office

1(877)846-1602

fosteryouthhelp@dss.ca.gov

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