



OACCA

Ohio Association of Child Caring Agencies, Inc.

Fostering Connections Implementation Guide Federal Fostering Connections to Success and Increasing Adoptions Act Public Law 110-351

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The following reports were used to develop this Guide:

Child Welfare League of America

“Key Questions for State and Local Child Welfare Advocates and Officials Regarding Implementation”

“Fostering Connections to Success: Resources in Seven Key Areas”

“Summary of Fostering Connections to Success and Increasing Adoptions Act, H.R. 6893”

North American Council on Adoptable Children

“New Federal Law Overhauls U.S. Child Welfare Financing”

Congressional Research Service

“The Fostering Connections to Success and Increasing Adoptions Act of 2008”

U.S. Department of Health and Human Services

“Public Law 110-351 Program Instruction”

BACKGROUND

Several bills were introduced in Congress during 2007 and 2008 that ultimately became part of H.R. 6893, the ***Fostering Connections to Success and Increasing Adoptions Act***, sponsored by U.S. Rep. Jim McDermott (D-Connecticut). The bill passed the U.S. House of Representatives and U.S. Senate by unanimous consent. It was signed into law by the President on October 7, 2008 (P.L. 110-351). OACCA is proud to have solicited support from many of Ohio's Member of Congress during Capitol Hill visits in 2008, and from phone calls and letters of support. Many OACCA member agencies also participated in our advocacy efforts to get this landmark legislation passed by Congress.

The overall goal of the ***Fostering Connections*** is to ensure greater permanence and improve the well-being of children served by public child welfare agencies. As enacted, ***Fostering Connections*** revises the Adoption Incentives program and extends its funding authorization for five years (FY2009-FY2013). It makes significant changes to federal funding for child welfare programs, which include authorizing new federal support for states that provide kinship guardianship assistance to eligible children leaving foster care; expanding eligibility for federal adoption assistance (by phasing out, over FY2010- FY2018, income and other eligibility criteria that are based on dated cash welfare program rules); extending, as of FY2011, eligibility for federal foster care assistance to youth who remain in care beyond 18, up to age 21; and phasing in additional support to states for child welfare related training. The bill also appropriates \$15 million in annual funding, for five years, for a new competitive grant program.

Apart from these financing changes, ***Fostering Connections*** establishes new requirements for receipt of federal child welfare funding by public child welfare agencies. These include several that focus exclusively on the health and education status of children in foster care and others intended to ensure, or enable, sibling and other kinship connections for children in, or entering, foster care, and those leaving to adoption or guardianship. The bill also requires states to make new efforts related to planning for the transition of older children leaving foster care for independent living and requires states to inform prospective adoptive parents of foster children of their potential eligibility for the adoption tax credit.

Many of the changes included in the new law are projected to increase federal spending for child welfare. However, the increases are projected to be fully offset (over the next five and ten years) by savings or increased revenues to be produced by other changes in the bill (both related and unrelated to child welfare policy).

OACCA is anxious to work closely with the Ohio Department of Job and Family Services, the Governor, and General Assembly to ensure that Ohio fully maximizes the opportunities set forth in ***Fostering Connections***.

SUMMARY OF LAW

Foster Care and Independent Living

Continuing Federal Support for Children in Care after Age 18

- Allows states to provide care and support to youth in foster care until the age of 19, 20, or 21.
- Allows current protections and requirements for younger children in foster care to apply to youth ages 18-21.
- Allows states to extend adoption assistance and/or guardianship payments on behalf of youth ages 19, 20, or 21.
- Effective Date of this State Option: States may exercise the option to extend the age of care starting on October 1, 2010 (Federal FY 2011).
- Allows children who leave foster care after age 16 for kinship guardianship (or adoption) to be eligible for independent living services and education and training vouchers.

Transition Plan for Children Aging out of Foster Care

- Requires child welfare agencies to help youth develop a transition plan during the 90-day period immediately before a youth exits from care at 18, 19, 20, or 21.
- The plan must be as detailed as the child chooses and include specific options on housing, health insurance, education, local opportunities for mentoring, continuing support services, work force supports, and employment services.

Expanding IV-E for Private Agency Training

- Expands the availability of federal Title IV-E training dollars to cover training of staff not only in public agencies but in private child welfare agencies as well as court personnel, attorneys, guardian ad litem, and court appointed special advocates.
- Allows IV-E training dollars to be used to train prospective relative guardians in addition to foster and adoptive parents.

Sibling Placement

- States must make reasonable efforts to place siblings in the same foster care, kinship guardianship, or adoptive placement, unless doing so would be contrary to the safety or well-being of any of the siblings.
- If siblings are not placed together, the state must make reasonable efforts to provide frequent visitation or other ongoing interaction between the siblings, unless this interaction would be contrary to a sibling's safety or well-being.

Adoption

Adoption Incentives Program

- Enhances incentives in current law to promote the adoption of children from foster care and allows states to receive an additional payment of \$1000 per adoption if the state's adoption rate exceeds its highest recorded foster child adoption rate since 2002.
- Extends the current Adoption Incentive Grant Program for an additional five years and awards \$8000 per older child (nine and older) adoption and \$4000 per special needs adoption above the baseline. This doubles the incentive for these adoptions.
- Updates to FY 2007 the adoption baseline above which incentive payments are made.
- Gives states 24 months to use the adoption incentive payments.

Promotion of Adoption of Children with Special Needs

- Children who are eligible for SSI, based solely on the medical and disability requirements, would automatically be considered children with special needs and eligible for adoption assistance without regard to the SSI income requirements.

Adoption De-link

- Current eligibility for federal funding of adoption assistance (similar to foster care maintenance support) allows federal funding only if a child was removed from a family that would have been eligible for AFDC cash assistance as it existed on July 16, 1996. This phased-in provision "de-links" a child's eligibility for federal adoption assistance payments from outdated AFDC income requirements.
- Any child who has spent five years in care is eligible and any siblings of an eligible child is eligible.
- As children are phased-in, those children with special needs who are involuntarily or voluntarily placed with or relinquished to the care of a licensed private child placement agency or Indian tribal organization, as well as those in the care of public state or local agencies, will also be eligible for adoption assistance.

Adoption Tax Credit

- Ensures that children in foster care benefit from the adoption tax credit by requiring states to inform all people who are adopting or are known to be considering adopting a child in the custody of the state that they are potentially eligible for the adoption tax credit.

Kinship Care

Kinship Guardianship Assistance Payments

- Gives states the option to use federal Title IV-E funds for kinship guardianship payments for children raised by relative caregivers.
- Children eligible under this provision must also be eligible for federal foster care maintenance payments and must reside with the relative for at least six consecutive months in foster care to be eligible for the kinship guardianship assistance payment.
- Children eligible under this provision are those for whom return home and adoption are ruled out and who likely would otherwise remain in foster care until they aged out of the system.
- The kinship guardianship assistance payment rate for these children may equal but must not exceed the foster care payment that would have been paid had the child remained in a foster family home.
- States that provided guardianship assistance or services as part of a IV-E waiver demonstration project may continue to claim IV-E funds for provision of those same supports to children who are receiving under a waiver as it existed on September 30, 2008 (grandfathering of relatives currently using the waiver to claim funds to provide care).
- Allows children who leave foster care after age 16 for kinship guardianship (or adoption) to be eligible for independent living services and education and training vouchers.

Family Connection Grants

- Authorizes a new grant program for activities designed to connect children in foster care (or at risk of entering foster care) with family.
- Funds can be used for:
 1. kinship navigator programs;
 2. intensive family-finding efforts;
 3. family group decision-making meetings for children in the child welfare system, with special attention to children exposed to domestic violence; or
 4. residential family substance abuse treatment programs.
- Guarantees \$15 million a year for competitive, matching grants to state, local, or tribal child welfare agencies and nonprofit organizations that have experience working with children in foster care or kinship care

- \$5 million of the \$15 million in guaranteed funds are reserved each year for grants for kinship navigator programs.

Notice to Relatives

- Requires state agencies to exercise due diligence to identify and provide notice to all adult relatives of a child within 30 days after the child is removed from the custody of the parent(s).

Licensing Standards for Relatives

- The bill clarifies that under current guidance states may waive non-safety licensing standards (as determined by the state) on a case-by-case basis in order to eliminate barriers to placing children with relatives.
- Requires the Department of Health and Human Services (HHS) to submit a report to Congress within two years that examines state licensing standards, states' use of case-by-case waivers, and the effect of the waivers on children in foster care, reviews the reasons relative foster family homes may not be able to be licensed, and recommends administrative or legislative actions to allow more children to be safely placed in foster care and be eligible for federal support.

Education

Promoting Educational Stability

- Requires state child welfare agencies to improve educational stability for children in foster care by coordinating with local education agencies to ensure that children remain in the school they are enrolled in at the time of placement into foster care, unless that would not be in the child's best interests.
- If remaining in the same school is not in the child's best interest, the state must ensure immediate enrollment in a new school with all of the educational records of the child provided to that new school.
- The cost of transportation from a child's foster home to that child's school can be calculated as part of the foster care payment.
- Requires states to provide assurances in their Title IV-E state plans that every school-age child in foster care, and every school-age child receiving an adoption assistance or subsidized guardianship payment, is enrolled as a full-time elementary or secondary school student or has completed secondary school.

Health

Health Oversight and Coordination Plan

- Requires states to develop, in coordination and collaboration with the state Medicaid agency and in consultation with pediatricians and other experts, a plan for the ongoing oversight and coordination of health care services for any child in foster care. The state health plan must include:
 1. health screening and follow up screenings
 2. how needs will be identified and addressed
 3. how medical information will be updated and shared
 4. steps taken to ensure continuity of care including the possible use of medical homes for each child
 5. oversight of medication
 6. how the state consults with medical and nonmedical professions on the appropriate treatment of children

IMPORTANT HIGHLIGHTS OF LAW

Extending IV-E to Support Foster Youth Beyond 18

Beginning on October 1, 2010 (Federal FY 2011), ***Fostering Connections*** permits, but does not require, states to provide care and support to foster youth or youth who left foster care for adoption or guardianship after age 16 until the age of **19, 20, or 21**, with specified regulations. This would entail a state match. Therefore, Ohio must determine if, when, and how it could fund this extension of services. ***Fostering Connections*** also permits states to extend adoption assistance and kinship guardianship payments on behalf of youth up to 19, 20, or 21, which also would require a state match.

The specified regulations that would make a foster youth eligible for continued support beyond 18 include: the youth is completing high school or an equivalency program; the youth is enrolled in post-secondary or vocational school; the youth is participating in a program or activity designed to promote, or remove barriers to, employment; the youth is employed for at least 80 hours per month; or the youth is incapable of doing any of these activities due to a medical condition.

Lastly, ***Fostering Connections*** permits foster youth age 18 or older to retain eligibility for federal foster care maintenance payments while living independently in a **supervised** setting (as must be defined in regulations by HHS). Ohio must also determine if the age will increase to 19, 20, or 21, or increase at all.

Expanding IV-E for Private Agency Training

Allows states to claim federal reimbursement of the costs of providing short-term training — related to carrying out the Title IV-E foster care, adoption and kinship guardianship assistance program — to current or prospective relative guardians, staff of state licensed or state-approved (private) child welfare agencies, and for certain court or court-related personnel handling abuse and neglect cases. Phases in a 75% federal reimbursement rate for these relative guardian, private child welfare agency workers, and court or court related personnel training claims beginning at 55% in FY2009 and rising by 5% annually (until the reimbursement rate reaches 75% for all Title IV-E eligible training costs in FY2013).

HHS Family Connections Grant: An Excellent Funding Opportunity for Providers

This is a new U.S. Department of Health and Human Services grant program designed to connect foster youth (or youth at-risk of entering care) with family. Funding will be first available in FY2009. The grant authorizes \$15 million annually to be dispersed on a competitive basis to no more than 30 successful public or private agencies that have experience working with youth in foster or kinship care. The grant provides 75% of the funding for a grantee's approved program costs in the first and second year of the grant and 50% in the third year, if applicable (time period is 1 to 3 years).

Grant funds can be used for: ***kinship navigator programs, intensive family-finding efforts*** that utilize search technology to find biological relatives, ***family group decision-making meetings***, which, when appropriate, must safely address issues of domestic violence; and ***residential family treatment centers that enable parents and children to live together in a safe environment*** for no less than six months and that provide a full range of services to meet the family's needs (onsite or by referral), including substance abuse treatment services, children's early intervention services, family counseling, medical and mental health services, nursery and pre-school, and other services designed to support the family.

Adoption Incentives Program

Fostering Connections extends funding authority for Adoption Incentives for five years (FY2009-FY2013) at \$43 million annually; resets the base number of adoptions a state needs to finalize to earn an incentive award (in each of FY2008-FY2012) to the number it finalized in FY2007; raises the incentive amount available for an increase in the number of older child adoptions (from \$4,000 to \$8,000) and for special needs (younger than age nine) adoptions (from \$2,000 to \$4,000); continues prior law incentive payment amount of \$4,000 for increase in overall number of children adopted from foster care; and ensures that states have 24 months to spend any Adoption Incentive awards earned.

Fostering Connections requires that any appropriated Adoption Incentive funds not needed to make awards for an increase in the number of adoptions finalized, must be paid as incentive awards for any state that increases the rate at which children are adopted from foster care; to earn this award for adoptions finalized in any of FY2008 through FY2012 a state must achieve a “foster child adoption rate” that exceeds its previous “highest ever foster child adoption rate” (beginning with FY2002); the amount of the award is \$1,000 times the increased number of adoptions achieved by the state that are attributed to the increased adoption rate.

De-Linking and Promoting Special Needs Adoptions

Thousands of children receive no federal adoption assistance, primarily because their birth parents’ incomes were higher than 1996 AFDC eligibility levels. Some of these youth get no aid, while others receive less support or lose benefits when they move to a new state. Denying children federal assistance also places an unfair financial burden on states. It makes no sense to tie a child’s federal adoption assistance eligibility to the income of parents whose legal rights have been severed. ***Fostering Connections*** removes this eligibility requirement.

Within 10 years, regardless of their birth parents’ income, all children adopted from foster care who meet other IV-E criteria will be eligible for federal adoption assistance—which should increase their chances of being adopted and having adequate support. Beginning FY 2010 (which starts October 1, 2009), children who have been in care for at least 60 consecutive months and youth adopted at age 16 or older will be eligible for IV-E adoption assistance.

Fostering Connections phases in (based on age, length of stay in care and membership in sibling group) elimination (de-linking) of all income, resource, and family structure tests associated with eligibility for federal Title IV-E adoption assistance, including such tests that were established as part of the prior law cash aid program, which was known as Aid to Families with Dependent Children (AFDC). ***Fostering Connections*** also begins the phase in of these revised adoption assistance eligibility criteria in FY2010 for any child who is age 16 or older at the time his or her adoption assistance agreement is finalized (in that or a later year) and gradually lower this age, until FY2018, when the new eligibility rules will apply to a child of any age (see table on the right).

The law provides that as of FY2010 the revised adoption assistance eligibility criteria also applies to any child who has been in care for 60, or more, consecutive months at the time the adoption assistance agreement is finalized, without regard to the child’s age at that time.

Fostering Connections also further stipulates that as of FY2010 the revised adoption assistance eligibility criteria also apply to any child who is a sibling of a child for whom the new eligibility rules are effective (whether because of that child’s age or length of stay in care), provided that the sibling will be placed in the same adoptive home as the child for whom the new eligibility rules apply.

Age	Year
16 & older	2010
14 & older	2011
12 & older	2012
10 & older	2013
8 & older	2014
6 & older	2015
4 & older	2016
2 & older	2017
all ages	2018

QUESTIONS ABOUT STATE IMPLEMENTATION

Kinship Care

- Will Ohio take the option to create a kinship program funded in part by Title IV-E funds? If so, what will kinship payments be set at? Rates can be up to but not exceed foster care payment.
- Are TANF funds used in Ohio's kinship program? If so, and if those funds are replaced with Title IV-E funds, what will Ohio do with the TANF funds? Will they be invested in other child welfare programs?

Family Connection Grants

- Does Ohio currently operate one of these programs funded under this new grant program?
- Is it possible to expand these efforts under this new grant?
- Are there partnerships that we can form with ODJFS or PCSAs to encourage private agency utilization of these grant opportunities?

Notice to Relatives

- What notification process does Ohio have in place to inform relatives when a child is removed from the custody of his or her parent(s)?
- How does Ohio define adult relatives: in addition to grandparents, aunts, uncles, cousins?

Licensing Standards for Kinship Parents

- Does Ohio exercise a waiver of licensing standards on a case-by-case basis?
- What guidance will caseworkers have to make these waivers?

Extending Foster Care to Age 21

- Will Ohio take this option when it is available on October 1, 2010? To what age?
- How will this effect the eligibility age for adoption assistance and kinship care?

Transition Plan for Children Aging out of Foster Care

- Ohio is now required to assist is developing transition plans with youths during the 90-day period immediately before youths exit from care at age 18, 19, 20, or 21. What additional work does this transition plan entail?
- How will the plan address the required issues including housing, health insurance, education, opportunities for mentoring, access to support services, work force supports, and employment services?
- Ohio is implementing the new National Youth in Transition Data Base. How will the extension of foster care to age 21 impact the data collected on youth that leave foster care after 21?

Housing and Independent Living

- Can Ohio implement Sec.472(c)(2) (definition of child care institution) to ensure that semi-supervised scattered-site apartments units are recognized as legitimate IV-E reimbursable independent living placement options for specified eligible youth? If yes, will this be at the same rate/percentage for foster and group homes?
- Can ODJFS or HHS Region V allow semi-supervised scattered-site apartments units to be legitimate IV-E reimbursable independent living placement options for youth in care ***under age 18***?
- Will Ohio need to revise its codes to recognize new independent living arrangements?

- Can we develop a system that gives the state and counties maximum flexibility in terms of creating living arrangements for youth in transition that are similar to those of “normal” youth between 18 and 24? This would mean allowing youth to move in and out of different situations depending on life needs at that point in time.

Expanding IV-E for Private Agency Training

- How can we take advantage of the expanded funds?
- What about CASA's, GAL's, and court-related personnel? Can their training be expanded?
- What about training opportunities for kinship caregivers?

Promoting Educational Stability

- What will Ohio do to make sure that there is an arrangement with the local school district to allow a foster child to remain in school even if he or she leaves the district?
- What will Ohio do to make sure that there is an arrangement with local school districts to assure the rapid transfer of records and to ensure an immediate enrollment in a new school?
- How will the cost of any new transportation from a child's foster home to that child's school be calculated as part of the foster care payment?
- What steps will Ohio take to ensure that every school-age child in foster care, and every school-age child receiving an adoption assistance or subsidized guardianship payment, is enrolled in a full-time elementary or secondary school?

Health Oversight and Coordination Plan

- What will be the health planning process for children in foster care?
- Which stakeholders on children's health will be involved?
- How will health screenings be conducted?
- How will the storing and transferring of medical information be carried out?
- How will continuity of care and the oversight of medication be maintained?
- What is the specific responsibility of the Medicaid agency currently?

Sibling Placement

- What assurances are currently in place or what new assurances will be implemented so that there are reasonable efforts to place siblings in the same foster care, kinship guardianship, or adoptive placement?
- If siblings are not placed together what are the plans to make sure frequent visitation or other ongoing interaction between the siblings takes place?

Adoption Incentives Program

- Are there programs and strategies in Ohio to better target the adoption of older children?
- How are funds awarded from an adoption incentive fund spent in our state?

Adoption De-link

- Will the delink to adoption assistance effect special needs adoption support formulas in a positive way, given the lengthy phase in period?
- Can the delink phased in starting with age 16 have an impact on "older-child" adoptions?

Adoption Tax Credit

- Are there strategies to promote the adoption tax credit with special needs adoption families?