

Child Welfare Policy Manual

Questions & Answers

3.4 INDEPENDENT LIVING, Related Foster Care Requirements

1. Question: Can the permanency plan for a child when s/he is "placed in another planned permanency living arrangement" include independent living and/or emancipation in accordance with 475(5)(C) of the Social Security Act?

Answer: Yes. On a case-by case basis only. If the State identifies independent living as the permanency plan, it must document to the court a "compelling reason" that it is not in the best interest of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian. An example of a compelling reason found in the regulation at 45 CFR 1356.21(h)(3)(i) is the case of an older teen who requests that emancipation be established as his/her permanency plan.

- **Source/Date:** Questions and Answers on the Chafee Foster Care Independence Program
- **Legal and Related References:** Social Security Act - section 475, 45 CFR 1356.21(h)

2. Question: What is the definition of "foster care" to be used in connection with the Chafee Foster Care Independence Program?

Answer: In general, the definition of foster care at 45 CFR 1355.20 applies. It defines foster care as "24 hour substitute care for all children placed away from their parents or guardians and for whom the State agency has placement and care responsibility..." However, in light of the requirement from the Social Security Act in section 477(b)(3)(G) that States make benefits and services available to Indian children on the same basis as other children in the State, children in Tribal or BIA placements who are otherwise eligible are considered to have been "in foster care" for purposes of this program.

- **Source/Date:** 7/25/02
- **Legal and Related References:** Social Security Act - section 477(b)(3)(G), 45 CFR 1355.20

3. Question: Can foster care include non-paid relative care where a foster care maintenance payment is not being made?

Answer: Yes. The definition of foster care at 45 CFR 1355.20 does not require a payment.

- **Source/Date:** Questions and Answers on the Chafee Foster Care Independence Program
- **Legal and Related References:** 45 CFR 1355.20

4. Question: Is an Indian boarding school considered a foster care setting for the purposes of eligibility for Chafee Independent Living services? Would it matter if the boarding school were outside the U.S., e.g., in Canada?

Answer: If the Indian youth is placed in the boarding school as his/her foster care placement, the youth is eligible for the services of the Chafee program. This answer is the same whether or not the Indian boarding school is in Canada.

- **Source/Date:** 7/25/02
- **Legal and Related References:** Social Security Act - section 477, 45 CFR 1355.20

5. Question: Are youth who have been dually adjudicated with both delinquent and abuse/ neglect determinations, but are placed only in a detention facility eligible for Chafee services?

Answer: No. According to the definition of a child care institution, which is a foster care placement option at 45 CFR 1355.20, "detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent" are not considered foster care placements. Therefore, a youth who is placed in a detention facility is not considered to be in foster care. If the youth has never been in foster care, Chafee funds cannot be used to serve him/her.

- **Source/Date:** 7/25/02
- **Legal and Related References:** Social Security Act - section 477, 45 CFR 1355.20