

January 16, 2018 – Independent Living

A special thank you to **Marcel, Abel,** and **Carlos** from **Our Kids** for not only sharing your time and knowledge, but for helping to simplify really complex topics. I hope the attachments will help!! All 3 of our panelists urge GALs with questions or issues regarding **Independent Living (IL)** -- including **PESS (Post-Secondary Education Support Services)** and **EFC (Extended Foster Care), Relative Caregiver Assistance (RCG)** or **Non-relative Caregiver Assistance (NRCG)** -- to please reach out; they are here to help!!

- When a youth enters Independent Living, it is a failure of the system because we haven't provided permanency for that child. Within the first 12 months, we should have reunified or found a permanent solution for that youth.
- At age 17, if a child has not achieved permanency, independent living staffings begin. There are 4 staffings between ages 17 - 18 which include the GAL, the child, the agency, and Our Kids. By age 18, there should be a transition plan in place which identifies where the child will be living and what they will be doing (completing high school, attending college or vocational school, completing GED, working).
- Every child needs at least 1 permanent, positive adult relationship.
- **Extended Foster Care** program is the child's choice to enter or decline. The program is designed to assist youth who have aged out to get an education.
 - This is a program for kids at age 18 who have been living in licensed care AND are attending high school or working on GED OR enrolled in college or vocational program OR working 80 hours month OR have a documented, diagnosed disability that would prevent them from participating in the aforementioned activities.
 - To stay in the program, youth must: (1) meet w/caseworker monthly; (2) continue to attend school or work or work on GED; (3) attend Court every 6 months. (JR usually in front of CRP.)
 - If youth leaves the program and then wants to reenter later, the child submits an application to Our Kids.
 - They can live with a licensed foster parent, in a licensed group home, or in a supervised living arrangement (dorm, rental home ,or apartment).
 - They can remain in extended foster care until age 21 or 22 with a disability.
- Post age 18, a case plan must be submitted to the court within 30 days. This is different than the case plan we are accustomed to seeing because the tasks are for the youth (stay in school, get a job, secure housing, etc.). They will also be working with an **Independent Living Specialist** from Our Kids.
- **PESS (Postsecondary Education Services and Support)**
 - The **dependency eligibility requirements** are:
 - ✓ The student must be between 18 and 23 AND enrolled in a Florida Bright Futures Eligible School with at least 9 credit hours a semester.
 - ✓ Youth was living in licensed care on their 18th birthday AND spent at least 6 months in licensed care prior to their 18th birthday - the 6 months are not required to be the preceding 6 months; OR

- ✓ Youth was adopted from foster care or placed with a court-approved guardian after spending at least 6 months in licensed care for the 12 months immediately preceding such placement or adoption; OR
 - ✓ Youth is currently living in licensed care AND spent at least 6 months in licensed care prior to their 18th birthday -- 6 months not required to be the immediately preceding 6 months.
- Students receive a monthly stipend of \$1,256 -- this is independent of any other earned income.
- There are no immigration requirements.
- There is an annual federal stipend (ETV) available if the chosen academic institution meets ETV eligibility requirements (usually for schools outside of Florida).
- Aftercare is for those who were in licensed care at 18 and not yet 23 but are not in EFC or receiving PESS. This is used as a 1-time bridge for kids who need help.
- Food stamps are \$196 month, and the kids or families must apply for this themselves.
- **TANF (Temporary Assistance for Needy Families)** – temporary cash assistance
 - Cash benefit received is less than relative/non-relative caregiver assistance.
 - Apply through ACCESS.
 - Child must have legal status -- no immigration requirement for caregiver.
 - Eligible from date of placement with custody release order.
- **Relative Caregiver Funds (RCG)**
 - On date of placement, complete the application.
 - Once ADJUDICATED, complete the relative caregiver form (parts A, B, and D) and SIGN.
 - Supporting docs must be included: Custody Release Order, Adjudication Order, and Approved Home Study.
 - Once packet is complete, send to DCF.
 - This is done by the agency case manager!
 - Monthly payment is higher than TANF and there is no “catch up;” therefore, as soon as eligible, submit RCG form.
 - Requirements: court-ordered placement w/qualified relative (5th degree), not receiving other benefits (SSI), adjudication order, positive home study, current immunization records, child support enforcement, & enrolled in school, if age appropriate.
 - ½ sibling not related to caregiver, but placed with eligible sibling, is eligible.
- All applications are processed by DCF.

- **Non-Relative Caregiver Funds**
 - Funding comes from a different source, which is limited and can be discontinued any time.
 - Same monthly payments as relative caregiver.
 - Payments are processed through FSFN.
 - Requirements: court-ordered placement w/non-relative, not receiving other benefits, adjudication order, positive home study, & verify that ½ siblings have no relation to caregiver as they may qualify for RCG.
 - Application approved or denied w/in 5 days, but process is longer -- suggest direct deposit which shortens the process a bit. Can take up to 60 - 70 days to receive first check. Encouraged to apply as soon as adjudicated.

- There are 2 charts attached, which are extremely informative.
 - **IL Benefit Table:** This compares placement and independent living and benefits under various settings: licensed care, relative care under RCG, non-relative care under NRCG, relative/non-relative not in caregiver program, permanent guardianship between 16 & 18, permanent guardianship before age 16, adoption prior to 16 and adoption after 16.
 - **Strong Families Benefit Matrix:** Compares permanent guardianship and adoption and the benefit matrix.

Florida's Children First: Placement Status / Independent Living Benefit Comparison Table

	Licensed Care	Relative Care under Relative Caregiver Program	Non-relative Care under Relative Caregiver Program	Relative / Nonrelative NOT in Relative Caregiver Program
Who has Custody?	The state has legal custody.	Caregivers have legal custody under protective supervision of state.	Caregivers have legal custody under the protective supervision of the state.	Caregivers have legal custody under the protective supervision of the state.
Do Parents Retain Rights?	Yes, unless TPR granted, or parent deceased.	Yes, unless TPR granted, or parent deceased.	Yes, unless TPR granted, or parent deceased.	Yes, unless TPR granted, or parent deceased.
Where is the child placed?	In foster care or other licensed facility.	With the court-ordered relative.	With the court-ordered custodian.	With the court-ordered relative or custodian.
Does DCF supervision and court jurisdiction continue?	DCF supervision and court jurisdiction continue.	DCF supervision and court jurisdiction continue.	DCF supervision and court jurisdiction continue.	DCF supervision and court jurisdiction continue.
How can this placement be changed?	DCF may move children in its custody, but must follow the provisions in §409.145(2)(c) and FAC 65C-28.005	Any interested person may seek a court order to move children placed in relative care, but must follow the provisions in §409.145(2)(c) and §39.522.	Any interested person may seek a court order to move children in non-relative care but must follow the provisions in §409.145(2)(c) and §39.522.	Any interested person may seek a court order to move children in non-relative care but must follow the provisions in §409.145(2)(c) and §39.522.
Financial support for caregivers?	The Foster Care Room and Board rates are set by §409.145(4) with annual cost of living increases. DCF provides additional funds provided for IL skills and negotiates enhanced rates for some caregivers. Medical and therapeutic homes receive funds through Medicaid.	DCF supports through TANF funds, \$39.5085, unless the child receives social security benefits, the parents pay child support, or the parents live in the home with the child.	DCF supports through state funds. \$39.5085, unless the child receives Social Security benefits, the parents pay child support, or the parents live in the home with the child.	DCF does <u>not</u> support. Financial support may come through Social Security benefits or child support.
Medical Assistance up to age 18	Medicaid. CBCs pay for care of immigrant children not eligible for Medicaid.	Medicaid (except to some immigrant children).	Medicaid (except to some immigrant children).	Medicaid (except to some immigrant children).
Medical Assistance after age 18	Medicaid eligibility continues to age 26 under the Affordable Care Act.	Medicaid eligibility continues to age 26 under the Affordable Care Act.	Medicaid eligibility continues to age 26 under the Affordable Care Act.	Medicaid eligibility continues to age 26 under the Affordable Care Act.
Tuition & Fee exemption for Florida Schools	Yes- . §1009.25(1)(c)	Yes. §1009.25(1)(d)	Yes. §1009.25(1)(d)	No.
Eligible for Post Secondary Educational Support Services	Yes, if in this category of care at age 18 and was in licensed care for at least six months prior to age 18. 409.1451(2)(a)2	No.	No	No.
Extended Foster Care	Yes.	No.	No.	No.
Eligible for After Care Support Services	Yes, - if not in EFC or getting PESS §409.1451(5)(a)(3)	No.	No.	No.
Keys to Independence	Yes.	Yes.	Yes.	Yes.

Florida's Children First: Placement Status / Independent Living Benefit Comparison Table

	Permanent Guardianship entered b/w 16 & 18	Permanent Guardianship entered before age 16	Adoption prior to age 16	Adoption after age 16
Who has Custody?	Caregivers have legal custody.	Caregivers have legal custody.	Caregivers have legal custody.	Caregivers have legal custody.
Do Parents Retain Rights?	Yes, unless TPR granted, or parent deceased.	Yes, unless TPR granted, or parent deceased.	No. The caregivers/adoptive parents have full parental rights.	No. The caregivers/adoptive parents have full parental rights.
Where is the child placed?	With the court-ordered permanent guardian.	With the court-ordered permanent guardian.	With the adoptive parents.	With the adoptive parents.
Does DCF supervision and court jurisdiction continue?	DCF supervision ends, but court jurisdiction continues. No further hearings are scheduled.	DCF supervision ends, but court jurisdiction continues. No further hearings are scheduled.	No.	No.
How can this placement be changed?	The parent or guardian may seek a court order to dissolve the guardianship and reopen the case under §39.621.	The parent or guardian may seek a court order to dissolve the guardianship and reopen the case under §39.621.	Adoptions are permanent and children can only be removed by opening a new case.	Adoptions are permanent and children can only be removed by opening a new case.
Financial support for caregivers?	Not guaranteed. Possible sources: social security benefits, child support, relative or nonrelative caregiver payments under §39.5085.	Not guaranteed. Possible sources: social security benefits, child support, relative or nonrelative caregiver payments under §39.5085.	DCF may provide adoption subsidy and the child may continue to receive social security benefits.	DCF may provide adoption subsidy and the child may continue to receive social security benefits.
Medical Assistance up to age 18	Medicaid, most likely secondary to guardian's insurance.	Medicaid, most likely secondary to guardian's insurance.	Medicaid continues as secondary to parent's insurance.	Medicaid continues as secondary to parent's insurance.
Medical Assistance after age 18	Medicaid eligibility continues to age 21, if eligible for IL benefits. §409.903(4).	No, unless the child is independently Medicaid eligible.	No, unless the child is independently Medicaid eligible.	Medicaid eligibility continues to age 21, if eligible for IL benefits. §409.903.
Tuition & Fee exemption for Florida Schools	Yes, if the child spent 6 months after age 16 in DCF custody. §1009.25(1)(c).	No.	Yes, if adopted after 5/5/97 - §1009.25(1)(d).	Yes, if adopted after 5/5/97 - §1009.25(1)(d).
Eligible for Post Secondary Educational Support Services	Yes, if the child spent at least 6 months (of the 12 months) immediately preceding the guardianship in foster care. §409.1451(2)(a)1.	No.	No.	Yes. If the child spent at least 6 months (of the 12 months) immediately preceding the adoption in foster care. §409.1451(2)(a)1.
Eligible for Extended Foster Care	No.	No.	No.	No.
After Care Support Services	No per rule 65C-42.003 (1)(a). For students eligible for PESS the rule's limit contravenes 409.1451(3) which has no such limitation.	No.	No.	No per rule 65C-42.003 (1)(a). For students eligible for PESS the rule's limit contravenes 409.1451(3) which has no such limitation.
Keys to Independence	Only if the child was enrolled prior to guardianship, then will continue for 6 months.	Only if the child was enrolled prior to guardianship, then will continue for 6 months.	No.	Only if the child was enrolled prior to adoption, then will continue for 6 months.

Florida's Children First: Placement Status / Independent Living Benefit Comparison Table

	Reunification with a parent	Emancipation
Who has Custody?	The parent has legal custody .	No one has custody.
Do Parents Retain Rights?	Yes.	No.
Where is the child placed?	With the parents.	Young person selects own housing.
Does DCF supervision and court jurisdiction continue?	DCF supervision ends when the court closes the case. The court has the option to retain or relinquish jurisdiction.	No.
How can this placement be changed?	Reunification is permanent and children can only be removed by opening a new case.	Emancipated children are free to choose their own living arrangement.
Financial support for caregivers?	DCF does <u>not</u> support. Financial support may come through Social Security or child support.	DCF does not support. The child is expected to support self.
Medical Assistance up to age 18	No, unless family is independently Medicaid eligible.	No, unless the child is independently Medicaid eligible.
Medical Assistance after age 18	No, unless the child is independently Medicaid eligible.	No, unless the child is independently Medicaid eligible.
Tuition & Fee exemption for Florida Schools	No.	Possibly: if adopted from care after 5/5/97 or is homeless. §1009.25 (1)(d).
Eligible for Post Secondary Educational Support Services	No.	No.
Eligible for Extended Foster Care	No.	No.
After Care Support Services	No.	No.
Keys to Independence	Only if the child was enrolled prior to reunification, then will continue for 6 months.	No.

This table was prepared by Florida's Children First based on work of the Community Law Program, and revisions by the University of Miami Children and Youth Law Clinic. It is intended to assist attorneys as a starting point for research. We do not warrant that it is complete or accurate and it is not intended to provide a legal opinion. Updated 8/2017.



Frequently Asked Question	Permanent Guardianship	Adoption
Will the caregivers receive monthly payments from the state to help support the children after the case is closed?	If the caregivers are relatives, as defined by law (includes relatives of half-siblings who are also in this placement) and if the relatives live in Florida, they will receive a monthly payment for each child, called relative caregiver benefits. Non-relatives may also qualify for Non-relative Caregiver Financial Assistance as funds are available and eligibility is met. There is no monthly payment for relative/non-relative caregivers who live out of state, or who move out of state paid by the State of Florida, however relatives may inquire in their state of residence to determine if any such benefits are available from their own state.	Yes. Most children adopted through DCF qualify for a monthly payment called an adoption subsidy.
How much are the monthly payments?	The payments are in accordance with 65C-28.008. 0-5 \$242 per month 6-12 \$249 per month 13-17 \$298 per month *Non-Relative Caregiver funds are subject to availability.	The standard amount negotiated for adoption subsidy is \$417 per month. For children who require a medical or therapeutic foster board rate, an enhanced rate may be available upon the recommendation of the CBC and approval of DCF.
Can the caregiver get more than the standard payment?	No	The monthly subsidy amount may be increased under certain circumstances, such as for children who require a medical or therapeutic foster board rate. In such instances, an enhanced adoption subsidy rate may be available upon the recommendation of the CBC and approval of DCF.
Can the monthly payment be increased after the case is closed?	No	Yes. Adoptive parents may request an increase in the monthly adoption subsidy payment to address a change in the child's needs or a change in the family's circumstances.
Can assistance be sought toward extraordinary medical expenses or other expenses after the case is closed?	No	The adoptive parents may request post-adoption services or medical subsidy to assist with the cost of counseling, evaluations, or other medical expenses if the expenses are related to a physical or mental condition of the child that was identified prior to the adoption and if there are no other benefits available to pay for the services, such as Medicaid, health insurance, or school programs. Prior approval of the CBC is required before services are rendered.



Frequently Asked Question	Permanent Guardianship	Adoption
Will the children be eligible for Medicaid after the case is closed?	Yes, the children will be eligible for Medicaid, regardless of the permanent guardian's income.	Yes, children who qualify for the adoption subsidy will also be eligible for Medicaid until they are 18, regardless of the adoptive parent's income. Children who are IV-E eligible can continue to receive Medicaid even if the family moves out-of-state. If a child is non-IVE eligible, limitations on Medicaid eligibility outside of Florida may apply.
Will the children be eligible for private health insurance?	Yes, the children should be eligible if the permanent guardians have a health insurance plan that includes their children.	Yes, if the adoptive parents have a health insurance plan that includes their children.
Will the children be eligible for Social Security benefits?	<p>If the child was receiving SSI, the child may continue to be eligible, however, the relative cannot receive relative caregiver benefits or non-relative caregiver financial assistance funds and SSI for the child.</p> <p>If the child was receiving survivor's benefits for a deceased parent, the child will continue to receive those benefits.</p> <p>The child will not generally be eligible to receive disability benefits or survivor's benefits if the permanent guardian dies or becomes disabled, however, if the permanent guardian is a grandparent, the child may be eligible for these benefits under certain, very limited circumstances.</p>	<p>If the child was receiving SSI, the child can continue to receive those benefits if the adoptive parents qualify financially, however, the SSI benefits will be reduced by the amount of the adoption subsidy if the child's adoption subsidy is classified as IV-E.</p> <p>If the child was receiving survivor's benefits for a deceased parent, the child will continue to receive those benefits without any impact from the adoption.</p> <p>The child will also be eligible to receive disability benefits or survivor's benefits if the adoptive parent dies or becomes disabled.</p>
Will the children be eligible for subsidized daycare after the case is closed?	Children in permanent guardianship with relatives will retain their eligibility for subsidized daycare and their priority status so long as the permanent guardians are receiving relative caregiver funds.	Eligibility will be based on the adoptive parent's income and if eligible, participation may be dependent upon availability and wait listing.
Will the children be eligible for free college tuition?	<p>Children who meet one of these criteria are eligible for a college tuition and fee exemption:</p> <ul style="list-style-type: none"> • He or she is or was at the time of reaching age 18 in the custody of a relative under s. 39.5085, F.S.; • He or she is or was at the time of reaching age 18 in the custody of a non-relative under s. 39.5085, F.S.; • He or she was placed in a guardianship by the court after spending at least 6 months in the custody of the department after reaching 16 years of age. 	Yes. Adopted children are eligible for free tuition and waiver of fees at Florida's public universities, public community colleges and public vocational schools until the age of 28.



Frequently Asked Question	Permanent Guardianship	Adoption
Will the children be eligible for Post-Secondary Educational Support (PES) benefits to assist with expenses after the age of 18?	If the young adult was at least 16 years of age and placed with a court approved dependency guardian after spending at least 6 months in licensed care within the 12 months immediately preceding the placement; has earned a standard high school diploma; and is enrolled as a full-time student or its equivalent in an eligible postsecondary educational institution, the adopted young adult may be eligible for financial assistance in the amount of \$1256 monthly until attaining the age of 23.	If the adopted young adult was at least 16 years of age and was adopted from foster care after spending at least 6 months in licensed care within the 12 months immediately preceding the placement or adoption; has earned a standard high school diploma; and is enrolled as a full-time student or its equivalent in an eligible postsecondary educational institution, the adopted young adult may be eligible for financial assistance in the amount of \$1256 monthly until attaining the age of 23.
Will the caregiver be eligible for a tax credit?	No	Currently there is no adoption tax credit in Florida.
Will the adoptive parent have to pay the costs of the adoption?	Not applicable	No. The state will pay the costs of the adoption, up to \$1000.00, which generally covers the full amount of court costs and legal fees.
Are the biological parents obligated to pay child support?	Yes, the parents will still have a legal obligation to pay child support and can be court ordered to pay child support.	No.
Can the biological parents regain custody?	The children are intended to remain in the custody of the permanent guardians until they are 18 years old. However, it is possible, but not likely, that one or both of the parents could regain custody. It is also possible that one or both parents could get expanded visitation rights.	No.
Can the biological parents visit the children after the case is closed?	In most cases, the parents will have visitation rights. There will be a court order that explains the parents' visitation rights and explains any restrictions on the visitation, such as whether the visits have to be supervised. The permanent guardians cannot change the parents' visitation without going back to court to ask for the court order to be changed.	It will be up to the adoptive parents to decide whether the parents can have any contact with the children or any information about the children. If the adoptive parents decide to allow contact, it will be up to the adoptive parents to decide how that contact will take place.
Can the biological parents make decisions about the children's medical treatment or school attendance after the case is closed?	Not unless the permanent guardians want to include the parents in the decisions. The permanent guardians will be given full legal authority to make these decisions on their own.	No.