# Guidance for Implementing Assembly Bill 1962

## Summary of Assembly Bill 1962:

Starting in the 2020–21 school year, the definition of foster youth, for purposes of the Local Control Funding Formula (LCFF), will expand to include youth who are dependents under the jurisdiction of tribal courts (referred to as tribal foster youth) that meet specified requirements. Since these tribal foster youth are not under the jurisdiction of the California juvenile court system, and their information is not collected on a statewide level, nor will such information be collected in the future, it will fall to local educational agencies (LEAs) to collect this information at the local level and report it to the California Department of Education (CDE). Below is an overview of the revised definition of foster youth for purposes of including this population in the LCFF, guidance to LEAs on how they may identify these youth, and how this information can be reported to the CDE.

### Changes to the Definition of Foster Youth and Obligation to Report to the CDE

Assembly Bill 1962, Chapter 748, Statutes of 2018, amended California *Education Code* (*EC*) section 42238.01(b), which defines which students are “foster youth” for purposes of the LCFF, as well as for purposes of accountability under an LEA’s Local Control and Accountability Plan (LCAP). Specifically, subsection (4) was added to Section 42338.01(b) to require that, no later than the 2020–21 school year, the definition of foster youth is expanded to also include:

*A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court’s jurisdiction in accordance with the tribe’s law, provided that the child would also meet one of the descriptions in Section 300 of the Welfare and Institutions Code describing when a child may be adjudged a dependent child of the juvenile court.*

In addition, *EC* subsection (e)(ii) was added to *EC* Section 49085. This section requires that the California Department of Social Services (CDSS) share data on foster youth with the CDE for purposes of implementing the LCFF. Subsection (e)(ii) was added to clarify that:

*Nothing in this section shall require the State Department of Social Services to collect, nor share with the department [of Education], any information regarding the population described in paragraph (4) of subdivision (b) of Section 42238.01.*

Since tribal youth are not under the jurisdiction of a California court, and since CDSS is not required to collect or share this information with the CDE pursuant to subsection 49085 (e)(ii) above, ***LEAs will be responsible for collecting this information*** in order to ensure any students that might qualify as tribal youth are included in the expanded definition of foster youth for purposes of implementing the LCFF.

Once LEAs have identified one or more students as tribal foster youth, they will be responsible for reporting this information to the state’s educational data system—the California Longitudinal Pupil Achievement Data System (CALPADS)—to ensure these students are included in LCFF funding allocations and in CDE’s accountability and data reporting systems.

This information shall be collected by LEAs and reported into CALPADS on a regular basis through a program record. This information is certified by LEAs as part of their Fall 1 and End of Year 3 data submissions to the CDE. More information on the data collection and reporting process can be found in CALPADS documentation posted on the CDE’s web page.

To summarize:

* The CDE and the CDSS will ***not*** identify the tribal foster youth enrolled in an LEA’s district.
* LEAs will be responsible for identifying tribal foster youth at the local level and reporting the information into CALPADS.
* The information will be submitted through a program record and certified by the LEA as part of the annual End of Year data submission process through CALPADS.
* These program records will be reported to CALPADS for students enrolled in grades Transitional Kindergarten through 12 only.
* Students designated as tribal foster youth will be included in the Unduplicated Pupil Count used to determine annual LCFF funding.

Identifying tribal foster youth is important to ensure they are included in decisions LEAs have in their LCAP planning regarding supports and services for foster youth.

### Implementation Guidance

Implementation of AB 1962 requires that LEAs collect information to identify tribal foster youth. The CDE recognizes that this may not be a simple task given that the definition of tribal foster youth depends on actions taken by a tribal court, and whether there has been a petition filed that declares a child to be a dependent of the tribal court for reasons that would meet the requirements of a petition filed under Welfare and Institutions Code (WIC) Section 300 (see link to WIC Section 300 in the Additional Resources section below). Counties and/or LEAs may already have, or may wish to establish, relationships with tribal partners around supporting tribal foster youth, which may include information sharing agreements by which this information may be obtained directly from the tribal partner. Listed below are resources for LEAs that may wish to engage with tribal partners to establish partnerships to further the intent of AB 1962.

* Link to current list of tribal courts in California: [https://www.courts.ca.gov/14400.htm](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.courts.ca.gov_14400.htm&d=DwMFAg&c=SIStQSL0VMIUJoLS-Q8giiFlA-AKdP7tpJHyQh8DeXk&r=xVE3XY7vT7D7ucYHf31PPcnx8AqT_nfvm3D9iPP5MyE&m=mdqnwWm-fzJ_WxWtrB6eckTQLfveQxQdp6SFGWryYkA&s=TZQ-u69oSZhuoZhrU2TPjZb7iw_q1zpT-7xvK4kg-wg&e=)
* Information on California’s Tribal Communities can be accessed at: <https://www.courts.ca.gov/3066.htm>
* Link to current list of federal and state recognized tribes: <https://www.ncsl.org/research/state-tribal-institute/list-of-federal-and-state-recognized-tribes.aspx>
* Link to sample Memorandums of Understanding between a county office of education and a tribal entity within the county: <https://fyscptap.scoe.net/resources/tribal-foster-youth-ab-1962>
* The California Tribal Families Coalition is dedicated to protecting the health, safety, and welfare of tribal children and families. Their website with information and resources can be found at: <https://www.caltribalfamilies.org/>
* Information about the Tribal-State Programs on the California Courts’ web page: <https://www.courts.ca.gov/programs-tribal.htm>
* The Tribal-State Programs Unit of the Center for Families and Children developed resources and information specific to the Indian Child Welfare Act. These resources can be accessed at: <https://www.courts.ca.gov/3067.htm>

In lieu of pursuing partnerships with tribal entities or courts, an LEA may choose to identify tribal youth by including questions on yearly enrollment or registration forms used by LEAs during the annual enrollment of students. A sample enrollment or registration questionnaire is available in the Additional Resources section of this document. The form should be included at the top of registration materials that the LEA shares with families. This form includes questions which allow parents, guardians, or caregivers to identify if a student is under the jurisdiction of a tribal court. It also solicits tribal court contact information if the parent, guardian, or caretaker has such information. The form should be adapted as needed.

Once it has been brought to the LEA’s attention that a child may be a dependent child of a tribal court and may possibly meet the definition of tribal foster youth, LEAs should follow up and send a tribal court confirmation form directly to the tribal court to confirm that the child meets the definition of “tribal foster youth” as referenced in the expanded LCFF definition. The form asks the tribal court to confirm that the child has been declared a dependent of an Indian tribe, consortium of tribes, or tribal organization, which describes a child as meeting one of the descriptions in WIC Section 300.

A sample tribal court verification form can be accessed in the Additional Resources section. These forms are not mandated, but LEAs that report students as tribal foster youth must have records to verify that the student meets the definition of a tribal foster youth, as set forth in *EC*.

### Required Record Keeping

Regardless of the processes used, LEAs should collect and store the information and records within their local information systems. The CDE recommends that LEAs keep records of their tribal foster youth within their local data and information systems, and encourages LEAs to work with their student information system vendor to ensure their local student information system allows for the recording of the information with a student’s enrollment record. As set forth above, this information shall be reported into CALPADS as a program record, and certified by LEAs as part of their Fall 1 and End of Year 3 data submissions to the state. More information on the data collection and reporting process can be found in CALPADS documentation posted on CDE’s web page.

### The Definition of Foster Youth for LCFF is Different than the Definition for Education Rights

Foster youth are afforded additional education rights to address school stability, school discipline, and high school graduation, among other things (e.g. *EC* sections 48853.5, 48918.1, 49069.5, 51225.1, and 51225.2). However, the *EC* sections which grant foster youth additional education rights have a separate definition of foster youth, which does not include the expanded LCFF tribal foster youth. Even though tribal foster youth are not included in the foster youth definition used for determining eligibility for the additional education rights, the CDE encourages LEAs to afford tribal foster youth the same education rights afforded to foster youth who are under the jurisdiction of the California courts. Information on the additional education rights for foster youth are summarized on CDE’s Foster Youth Education Rights web page, a link for which is provided in the Additional Resources section.

### Additional Resources

The additional resources provided below include links to access the California Legislation referenced above, the sample enrollment and confirmation forms that may be used for identifying tribal foster youth, as well as other applicable resources:

* Sample Enrollment form and Sample Confirmation Form: <https://fyscptap.scoe.net/resources/tribal-foster-youth-ab-1962>
* WIC Section 300: <http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC&sectionNum=300>
* *EC* 42238.01: <http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=42238.01>
* *EC* 49085: <http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=49085>
* California Courts Dependency Guide: <https://www.courts.ca.gov/documents/dogbook.pdf>
* Judicial Council of California form JV-110: <https://www.courts.ca.gov/documents/jv110.pdf>
* Link to the CDE’s Foster Youth Education Rights web page: <https://www.cde.ca.gov/ls/pf/fy/fosteryouthedrights.asp>