



# The Expert

This is a newsletter dedicated to helping individuals and agencies work within a world that the average person can easily view with anxiety, feelings of intimidation and confusion

## News Letter

# Witness

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## Foster Parents Relationship to the FFA

### FFA Relationship to Foster Parents

**Issue:** In all of the lawsuits against Foster Family Agencies for alleged harm to a foster child client, attorney's for the plaintiff attempt to establish an "agency" relationship between the FFA and the foster parent. If this were to succeed it would make the FFA liable for the acts of the foster parent as if the foster parent was an employee of the agency. The question asked is, in what category a foster parent's relationship with the FFA falls.

**Response:**

**Options:**

- Employee
- Independent Contractor
- Volunteer
- Some yet to be determined category

**Compensation:**

- **The Federal Government** does not require foster parents to list the payments as income on their tax forms or to pay taxes on them.
- **The Social Security Administration** does not recognize foster parent stipends for the purpose of giving credit to them as income for the purpose of calculating social security retirement payments. No deductions from the stipend are required or made for the purpose of paying social security premiums.
- **The State of California Community Care Licensing** language, in referring to the stipends, states that the stipend is "for the benefit of the child".
- **Unemployment and disability insurance** are not deducted from the stipends and foster parents are not eligible for unemployment should the FFA decertify them for any reason.
- **Workers Compensation** coverage is neither required nor provided for foster parents, as it would be if they were employees.

"The foster parent stipend is for the benefit of the child."

CCL statement



(Continued)

## (Continued) FFA/Foster Parent Relationship

- **Foster Family Agencies** are not required to have foster parents fill out W4 forms nor are they required to issue W2 or 1099 forms to foster parents at the end of the year.

### Insurance

- **Foster parent insurance** is available as a separate line of insurance specifically because foster parents are not employees or agents of the agencies they work with.
- **Foster parents are not indemnified** under the agency's insurance as are employees and agents because they are not employees or agents

### Elements of Employment Relationship

- **Agency does not have direct control** over the foster parent as with an employee.
- **Attorney should review the Labor Code.** We do not believe the elements are present in the relationship between the foster parent and the agency.

### Foster Parent Handbook or Other Agency Policy:

Review the materials that are given to foster parents in training, at the time of certification, or in your placement agreement. Most foster parent manuals have language that stipulates that foster parents are not employees.

### Conclusion:

It is evident from the information set forth above, that foster parents are neither employees, agents or independent contractors in their relationship to the agency. The only category that appears to fit the facts is that of volunteer. It is not unusual for agencies to train volunteers and to provide some reimbursement for their expenses. It should be noted that California courts have ruled on this issue, so it remains undecided and this conclusion is not a legal one.

Collaborative research by the Western Child Welfare Law Center and consultant  
Daniel M. Marble, LCSW

“The agency does not have direct control over the foster parent.



### Important

If you would like more information, a training for your staff, or coaching for an upcoming law suit, you may contact me at the contacts below. If you are going to be testifying, talk to your attorney before you call me.

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