



COLORADO OFFICE OF
**THE CHILD'S
REPRESENTATIVE**

Foster Youth in Transition Program FAQ

[Colorado House Bill \(HB\) 21-1094](#), which created the Foster Youth in Transition Program (FYTP), went into effect on June 25, 2021. HB21-1094 established a more engaging and empowering way to serve eligible young people; established a new case type for participating youth; and provided participating youth client-directed Counsel for Youth (CFY) rather than a best-interests guardian ad litem (GAL).

[HB 22-1245](#), a cleanup bill to Colorado House Bill 21-1094, went into effect on August 9, 2022. The amendments in HB22-1245 address eligibility, "incapacitated persons" and "diminished capacity," Voluntary Service [Agreements](#) (VSAs), initial venue, and more. Relevant updates are italicized throughout this FAQ.

The FYTP will also be impacted by [HB 22-1038](#), which goes into effect on January 9, 2023, and provides CFY for most youth aged 12 or older with Dependency and Neglect (D&N) cases. Relevant updates are italicized throughout this FAQ.

Which youth are eligible for the FYTP?

To participate in the FYTP, youth must meet the following four requirements.

1. Aged 18 but less than 21 (or the greater age of foster care eligibility set by federal law).
2. *Have an open D&N case, resided in foster care on or after their 16th birthday, resided in noncertified kinship care on or after their 16th birthday and a court adjudicated them dependent and neglected, or had an open D&N case when they turned 18.*
3. Willing to sign a VSA with a county department of human services (department) or have signed a VSA and are in substantial compliance with their VSA; and
4. Engaged in, or intend to engage in, at least one of the following activities:
 - a. completing secondary education or an educational program leading to an equivalent credential,
 - b. attending an institution that provides post-secondary or vocational education,
 - c. working at least 80 hours per month, or
 - d. participating in a program or activity designed to promote employment or remove barriers to employment.

OCR may assign CFY before FYTP petitions are filed in court. Pre-petition CFY can review eligibility requirements with youth, assist youth with appeals of FYTP eligibility denials, advise youth about their rights and responsibilities in the FYTP, assist youth with FYTP petitions, and much more. Anyone can refer youth to OCR for assignment of a CFY via the referral form found at <https://coloradochildrep.org/youth/>.

Note: Requirement #4 does not apply to youth who are incapable of engaging in the listed activities due to a medical condition supported by regularly updated documentation in their case plan.

How does the FYTP work for youth who do not have an open D&N case?

Youth who do not have an open legal case can reenter the system through the FYTP. Reentering the system through the FYTP typically involves the following steps.

- The youth makes a request to the department where they self-attest to reside.
- Within three business days, the department must decide whether the youth is eligible for the FYTP.
 - If the department decides the youth is not eligible for the FYTP, the department must explain the reasons for its decision and provide the youth OCR's contact information. The youth may appeal the department's decision. Their CFY can help them with appellate processes.
 - If the department decides the youth is eligible for the FYTP, the department must explain the FYTP to the youth and provides the youth a VSA.
- Within three business days of a youth's decision to enter the FYTP, the department must prepare and execute a VSA and provide the youth a copy. The department must make a written referral to OCR and provide the youth OCR's contact information. OCR assigns CFY to the youth if OCR has not done so already.
- The VSA may remain in effect for up to 90 days. After 90 days, the department must file a FYTP petition, with a copy of the VSA signed by the youth and the department attached.
 - Youth can an FYTP petition *with an attached VSA signed by the youth* at any time. CFY can help youth with these filings.
- *The court must set an initial hearing with 56 days of the filing of the petition. During the initial hearing, the court must appoint CFY; if OCR has already assigned CFY, the court must appoint that CFY.*
- Youth may participate in the FYTP before their 21st birthday (or a greater age of foster care eligibility set by federal law).
- At any time, youth can choose to leave the FYTP.
- At any time before an eligible youth turns 21 (or a greater age of foster care eligibility set by federal law), the youth can re-enter the FYTP after leaving the FYTP.

How does the FYTP work for youth who have an open D&N case?

Youth with open D&N case can remain in the system through the FYTP. Remaining in the system through the FYTP typically involves the following steps.

- The court must hold a transition hearing within 35 days of a youth's 18th birthday to determine whether the youth will opt into the FYTP or choose to emancipate. The department must file a report at least 7 days before the transition hearing.
- The youth may request *or consent to* continue the transition hearing for up to 119 days *to allow time to improve their emancipation transition plan, gather necessary documents and records, or for any other reason necessary to allow the youth a successful transition into adulthood.*
- If a youth chooses to emancipate, the court must hold an emancipation transition hearing. Prior to the youth's emancipation, the court must:
 - review the emancipation transition plan,
 - determine if the department made reasonable efforts toward the youth's permanency goals and preparing the youth for successful transition to adulthood,
 - determine whether the department provided the youth all necessary records/documents,
 - determine if the youth enrolled in Medicaid and advise the youth about eligibility for former foster care Medicaid, and

- advise the youth about their right to re-enter up to their 21st birthday (or a greater age of foster care eligibility set by federal law).
- If a youth opts into the transition program, the department must file an FYTP petition with the court. The department must attach copies of the youth's roadmap to success, along with a VSA signed by the youth and the department.
- After the department files an FYTP petition, courts must dismiss the youth from the D&N case and open a FYTP case. This action cannot result in an interruption of services including housing.

How are things different now that the FYTP exists?

The FYTP created substantive and procedural changes related to older youth. Examples follow.

- Prior to closing a D&N case after a youth's 16th birthday, courts must advise youth about the FYTP.
- Youth eligible for the FYTP can decide whether to remain in or reenter the system through the FYTP.
- Youth who participate in the FYTP have a right to client-directed CFY representation.
 - *There is an exception. A court may appoint a GAL for a child/youth aged 12 or older if the court determines a GAL is necessary due to the youth's diminished capacity. The child's/youth's GAL must remain the child's/youth's GAL and a separate CFY must be appointed. Diminished capacity means lacking "sufficient capacity to communicate or make considered decisions adequately in connection with the child's or youth's legal representation. Age or developmental maturity must not be the sole basis for a determination of diminished capacity."*
- Generally, D&N cases cannot remain open after youth turn 18½ years of age.
 - There is an exception. If a youth is found to be an incapacitated person or an incapacity finding for a youth is pending, the youth's D&N case can remain open until the youth successfully transitions into adult disability services and a court finds that it is in the youth's best interests for the D&N to terminate, or the youth turns 21 (or the greater age of foster care eligibility set by federal law).
- Youth who participate in the FYTP can enjoy less restrictive living requirements and live in a wider variety of situations with financial support.
- Youth participating in the FYTP may request to dismiss an FYTP case at any time.

What happens if a youth with a D&N or FYTP case runs away?

HB21-1094 contains new laws about youth with D&N or FYTP cases who run away from placement. A summary follows.

- Youth with D&N cases: The department may file a motion to terminate a D&N case because a youth aged 16-18 ran away and their whereabouts have been unknown for more than 90 days. The court must set a hearing within 35 days of the filing of the motion. During the hearing, the court must determine if the department made reasonable efforts to locate the youth. The parties may waive the hearing by stipulation.
- Youth participating in the FYTP: The department may file a motion to terminate the VSA because a youth no longer meets FYTP eligibility requirements. The motion must include an explanation of the department's efforts to reengage the youth. The court must set a hearing within 35 days of the filing of the motion to determine if a youth meets FYTP eligibility requirements. If a youth does not meet eligibility requirements, the court must have an emancipation discharge hearing and make required advisements, findings, and orders.

How do FYTP cases end?

HB21-1094 carefully defines the closure of FYTP cases. A summary follows.

- FYTP cases end with an emancipation discharge hearing. The court must hold an emancipation discharge hearing within 35 days of the youth's request to leave the FYTP or a department's motion to terminate the VSA, or prior to the last day of the month a youth turns 21 (or the greater age of foster care eligibility set by federal law).
- When a youth asks to leave the FYTP or is approaching 21 (or the greater age of foster care eligibility set by federal law), the youth and the department must develop an emancipation transition plan tailored to the youth's needs. The youth and department must finalize the plan no more than 90 days before the youth's emancipation discharge hearing.
- The department must file a report at least 7 days prior to the emancipation discharge hearing.
- Before the youth's emancipation, the court must:
 - review the emancipation transition plan,
 - determine whether the department made reasonable efforts toward the youth's permanency goals and preparing the youth for a successful transition to adulthood,
 - determine whether the department has provided the youth all necessary records and documents,
 - determine if the youth enrolled in Medicaid and advise the youth about their eligibility for former foster care Medicaid, and
 - advise the youth about their right to re-enter the FYTP.
- With the youth's consent, the emancipation discharge hearing may be continued up to 119 days, but not past the last day of the month in which a youth turns 21 (or the greater age of foster care eligibility set by federal law).