



Colorado Office of the  
Child's Representative

*Note: This document is a guide for GAL/counsel conversations with youth who not been found an incapacitated person pursuant to Colorado Revised Statute 15-14-102. If a youth has been found an incapacitated person or you suspect that a youth could be found an incapacitated person, please review Colorado Revised Statutes 19-3-203(4), 19-3-205(1)(a), 19-3-704, and 19-7-308(2).*

## TALKING POINTS ABOUT A YOUTH'S DECISION WHETHER TO PARTICIPATE IN THE FOSTER YOUTH IN TRANSITION PROGRAM

The Foster Youth in Transition Program empowers youth like you to make many important decisions about your life. To help you make those decisions, let's talk about the program.

Let's talk about some choices and rights you could have in the program.

The program is voluntary, meaning you decide whether to participate in the program and when to stop participating in the program.

If you decide not to participate in the program:

- you can get \_\_\_\_\_ (a service or support) through \_\_\_\_\_ (the name of the provider). To access \_\_\_\_\_ (the service or support), you will have to \_\_\_\_\_ (necessary steps), and
- you can choose to participate in the program before you reach age 21 (and possibly even after you reach age 21 due to some special COVID laws).

You have a say in the many services and supports you may receive through the program.

The services and supports provided through the program:

- must be based on what you want and need;
- must fit your developmental level;
- must be listed in a Voluntary Services Agreement created by you and the department and agreed to by you and the department; and
- can include help with enrolling in Medicaid and getting other public benefits, getting and paying for safe housing, getting a job, getting important documents and records, getting a driver's license, getting information about relatives and siblings (if such information is available and appropriate), pursuing your educational goals and applying for financial aid, and planning for your future. The program may also help if you have juvenile or criminal

records that may be expunged or if you qualify for Special Immigrant Juvenile Status (SIJS).

If you participate in the program, you keep all your adult rights and responsibilities.

The rights you keep include your rights to:

- decide whether to agree to medical care;
- enter into contracts such as leases, employment contracts, and contracts to buy something; and
- getting and keeping accounts with financial institutions like banks.

Let's talk about how the program is different from a dependency and neglect (D&N) case.

While only a county department of human services can file a D&N case, you can ask to participate in the program and even file a written request to participate in the program. That written request is called a petition.

While your parents were important parties in your D&N case, your parents are not parties in the program.

While you probably had a GAL in your D&N case, you will probably have counsel in the program. While your GAL decided and advocated for what was best for you, your counsel will advocate for what you want to happen in your program case. (Please see pages 4-5 for additional information related to counsel.)

While a D&N case is driven by what others think is best for you and/or your family, the program is much more driven by you and your choices. As examples, you decide whether to participate in the program and when to stop participating in the program. (See page 1 for more youth choices and rights involved in the program.)

While you were allowed to live in few places during your D&N case due to strict state laws and/or rules, you can live in more places in the program due to more flexible state laws and/or rules.

Let's talk about the program requirements.

You can participate in the program if:

- You are at least 18 years old but not yet 21 years old (or older than 21 due to some special COVID laws) and you were living:
  - in foster care on or after your 16<sup>th</sup> birthday or
  - with unlicensed care providers like relatives on or after your 16<sup>th</sup> birthday and a court made a finding that you are dependent and neglected; **AND**
- You:
  - would like to enter into a voluntarily services agreement with a county department of human services or
  - have already entered into a voluntary services agreement with a department of human services and you are complying with most of it; **AND**
- You are:
  - completing high school or an educational program that will lead to a qualification like a high school diploma;
  - attending a college, a university, or an educational program related to employment;
  - working part-time or full-time for at least 80 hours a month;
  - participating in a program or activity that helps you get employment; or
  - unable to participate in the above because of a medical condition.

**Note: This last group of requirements do not apply until 11/1/2021 due to some special COVID laws.**

Again, the program is voluntary, meaning that you decide whether to participate in the program and when to stop participating in the program.

If you chose not to participate in the program now, you can change your mind later and choose to participate in the program before you reach age 21 (and possibly even after you reach age 21 due to some special COVID laws).

Do you have any questions about the program?

What other information would help you decide whether you would like to participate in the program?

## TALKING POINTS ABOUT A YOUTH'S DECISION TO HAVE THEIR GAL OR A NEW ATTORNEY AS COUNSEL

If you choose to participate in the program, you have a right to counsel to represent you. Your counsel will help make sure that your rights are protected and that you get the services and supports the law provides.

If you currently have a D&N case, when you turn 18, your GAL will automatically switch from being your GAL to being your counsel. Shortly after your GAL switches to being your counsel, you get to decide if you want to:

- continue with your former GAL as your counsel or
- have the court appoint another qualified attorney as your counsel.

This right to counsel and your choice about your counsel are important parts of the program, so let's talk about each of them.

You've had a GAL for a while now. You may be wondering about how GALs are similar to and different from counsel.

The discussions you will have with your counsel will be a lot like the conversations we had while I was your GAL.

- Your counsel will give you legal advice, just like I did as your GAL.
- Your counsel will tell you what your counsel thinks about your case and your goals, just like I did as your GAL.

There will be two big differences.

- Your counsel will argue and advocate for what you want, not what your counsel thinks is best for you.
- Most things you tell your counsel will be confidential.
  - There is an exception to this confidentiality when you allow your counsel to share such information and you know the possible consequences of sharing the information.
  - There are a few other exceptions to this confidentiality such as "to prevent reasonably certain death or substantial bodily harm." However, the exceptions rarely apply and are the same ones that apply to adults who have counsel.

Because you will have a choice whether your counsel will be me, let's talk about that choice. You have the right to ask the court to appoint me or someone else as your counsel. That is your choice. I am good with whatever you decide.

I can be your counsel only if I do not have a conflict of interest that stops me from being your counsel. *(State the following if applicable: "Because I am still going to be the GAL for your siblings in the D&N case, I cannot be your counsel in your program case. You will get a new counsel who is trained and experienced with working with youth.")*

Do you have any questions about your right to choose your counsel?

What other information would help you decide if you would like me to be your counsel or if you would like a new attorney?