

# FOSTER YOUTH IN TRANSITION PROGRAM (FYTP)

Bench Card (updated 3.2024)<sup>1</sup>

## INTRODUCTION

### 2 FYTP PATHS & FYTP ELIGIBILITY REQUIREMENTS

Two paths: An FYTP case can open through (1) an open D&N case or (2) reentry.

Eligibility requirements for both paths: 19-7-304

- Age: At least 18 but not yet 21 (or greater age of foster care eligibility set by federal law);
- Case or care: (a) Youth with open D&N turns 18 or (b) on or after youth's 16th birthday, youth was in (i) foster care as defined in 19-1-103 or (ii) noncertified kinship care & adjudicated D&N;
- Work or school: Youth is (a) engaged or intends to engage in listed educational or vocational activities or (b) incapable of engaging in such activities due to documented medical condition; &
- Voluntary Service Agreement (VSA): Youth is (a) willing to sign VSA or (b) has signed VSA & is substantially fulfilling its requirements.

### PATH 1

#### OPEN D&N TO FYTP

Ongoing jurisdiction in D&N cases: 19-3-205

- **General rule:** JX terminates at age 18.5 unless terminated earlier by court order.
- **Exceptions:** If (a) youth is transitioning to adult services per 25.5-6-409.5, then court *may* extend jurisdiction until transition is complete. If (b) incapacity determination per 15-14-102 is pending or has been made, then jurisdiction *must* continue.

#### Jurisdiction & Youth on the Run: 19-3-205

If whereabouts of youth in county custody aged 16 but not yet 18 are unknown for more than 90 days, county may file motion to terminate jurisdiction. Court must set hearing **within 35 days of filing of motion** to determine whether county made reasonable efforts to locate youth. Hearing may be waived by stip. If youth returns, motion must be withdrawn & hearing may be vacated or changed to review.

Emancipation Transition Hearing: 19-3-310

Court must hold hearing **within 35 days after 18<sup>th</sup> birthday of youth named in open D&N**. County must file report **7 days before hearing**. Court must advise youth.<sup>2</sup> Youth decides to emancipate, request continuance, or opt into FYTP.

If youth chooses to emancipate:

- Personalized emancipation transition plan must be finalized **no more than 90 days** before hearing.
- Follow Emancipation Discharge Hearing & Case Closure Procedures on next page.

If youth requests continuance:

- Court may continue hearing **up to 119 days** (but not past age 18.5) (a) if youth would like more time to decide about or prepare for emancipation or (b) with youth's consent, to improve emancipation transition plan, gather documents & records, or other reasons to allow youth's successful transition into adulthood.

If youth opts into FYTP:

- County or youth may file FYTP petition. Youth chooses whether petition is filed in county (a) where youth resides or (b) serving youth. If county files petition, Roadmap to Success (RTS) & VSA signed by youth & county must be attached. If youth files petition, VSA may be signed by youth only. 19-7-307(1, 1.5, 6).
- D&N closes as to youth.
- Follow Program Case Procedures on next page.

### PATH 2: REENTRY

**19-7-304(2 & 3), 19-7-306(1)(b), & 19-7-307(1, 1.5, & 6)**

Pre-filing: Eligible youth without open D&N case enters VSA with county where youth resides. County must make written referral to OCR for assignment of counsel. OCR has authority to assign counsel prior to filing of petition.

Filing: Within **90 days of signing VSA**, county must file petition. Youth may file petition any time. Signed VSA attached (if petition filed by youth, VSA may be signed by youth only). Follow bellow Case Procedures.

#### FYTP Counsel

- Path #1: Youth keeps Counsel for Youth (CFY) from D&N case.
- Path #2: OCR authority to assign CFY. If OCR assigned CFY, court must appoint that CFY.
- Note: If court makes diminished capacity finding, youth may have GAL & CFY.

<sup>1</sup> Includes HB20-1094, HB22-1245, & HB22-1038.

<sup>2</sup> See pages 3-4 for Advisement Scripts.

## **PROGRAM CASE PROCEDURES**

### **Article 7 | Voluntary Services & Support | New JV Case # | Parties are county & youth.**

Notice: Court must ensure notice of all hearings & reviews is provided to youth & licensed foster parents. 19-1-307(5).

Initial Hearing: 19-7-308

- Timing: Court must set hearing **w/in 56 days of filing of petition.**
- During hearing: Court must appoint CFY assigned by OCR, advise youth,<sup>3</sup> make listed determinations, & schedule review.

Permanency Planning Hearings (PPH): 19-7-302, 19-7-307, 19-7-311, & 19-7-312

- Timing: Must occur **every 12 months.**
- Procedural requirements: Pursuant to 19-3-702.

Review Hearings

- Timing: Must occur **every 6 months.** (Upon agreement, review not coinciding w/PPH may be held on court's admin docket by written report.)
- County & court requirements:
  - Before hearing, county must file report that includes youth's RTS, youth's progress on youth's goals & whether youth is meeting VSA obligations, county's reasonable efforts to support youth in meeting youth's goals, & statement of barriers to youth meeting youth's goals & plans to address such barriers.
  - Court may order (a) county to provide additional services & supports to help youth achieve RTS goals or comply with state/federal law (19-7-305 lists minimum services & supports) and/or (b) orders for youth to follow to continue to be eligible for FYTP, if court finds youth is not substantially fulfilling VSA obligations.
  - Court must find whether county made reasonable efforts to implement youth's case plan & RTS, youth continues to need foster care placement, & placement is the least restrictive to meet youth's needs.

#### **Special Immigrant Juvenile Status (SIJS): 19-1-103**

At any time, court may make findings necessary for youth's SIJS designation. Court must enter finding that youth is dependent on court if (a) youth previously adjudicated D&N or (b) there is sufficient evidence that youth has been abused or neglect.

#### **Youth Participation: 19-7-312**

Review hearings must be held in way that seeks youth's meaningful participation, including offering remote options to accommodate youth's work, school, or treatment. Best practice is for all hearings to be held in such a manner.

### **EMANCIPATION DISCHARGE HEARING & CASE CLOSURE**

**19-3-705, 19-7-310, & 19-7-313**

Case closure can occur via three motions:

- a. Youth motion: At any time due to voluntary nature of FYTP. Court must hold hearing **within 35 days of filing of motion.**
- b. Youth age: County files motion **at least 90 days prior to youth's 21<sup>st</sup> birthday** (or greater age of foster care eligibility set by federal law) to request hearing before last day of month youth turns 21.
- c. County motion: County may file motion to terminate VSA & JX because youth no longer meets FYTP eligibility requirements. Motion must include county efforts to reengage youth. Court must hold hearing **within 35 days of filing of motion** to determine whether youth meets FYTP eligibility requirements.

County requirements: **7 days before hearing**, county must file report that includes:

- description of county's reasonable efforts toward achieving permanency goal & successful transition to adulthood,
- affirmation that county provided youth all necessary records & documents, &
- copy of youth's Emancipation Transition Plan (ETP pursuant to 19-7-301) which was finalized **no more than 90 days before hearing.**

#### **Necessary records & documents: 19-3-702(4)(d), 19-7-310(3)(c) & (4)(b)**

Court must make finding that county has provided youth copies of birth certificate, social security card, health insurance info, medical records, driver's license or state-issued identification card, proof of foster care, health records, education records, & written info about family history & sibling contact info (if appropriate).

Court requirements: During hearing, court must:

- review youth's ETP,
- consult with youth about readiness,
- determine whether county made reasonable efforts toward youth's permanency goals & to prepare youth for successful transition to adulthood,
- determine whether youth has been provided all necessary records & documents,
- determine whether youth is Medicaid enrolled & advise of former foster youth Medicaid eligibility until 26<sup>th</sup> birthday, &
- advise youth<sup>4</sup> pursuant to 19-7-310(3)(e).

<sup>3</sup> See pages 3-4 for Advisement Scripts.

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## ADVISEMENT SCRIPTS

### Initial Hearings: 19-7-309.5

- Services provided through the Foster Youth in Transition Program are voluntary, which means they are not required.
- If you meet Program eligibility requirements, you may remain in the Program until the last day of the month you turn 21 (or a greater age set by federal law).
- If you choose to leave the Program before you turn 21 (or a greater age set by federal law), but later decide that you need support before you turn 21 (or a greater age set by federal law), you have the right to begin receiving voluntary services again through the Program.
- Throughout your participation in the Program, you have the right to an attorney called Counsel for Youth or CFY. Among other things, your CFY will provide you advice about, & represent, what you want in your Program case.

### Transition Hearings: 19-3-705(3)(e)

- You have the right to choose to emancipate (which means live on your own) or opt into the Foster Youth in Transition Program.
- Throughout your participation in the Program, you have the right to an attorney called Counsel for Youth or CFY. Among other things, your CFY will provide you advice about, & represent, what you want in your Program case.
- You have the right to speak with CFY about your decision whether to participate in the Program.
- The Program can provide access to financial support with housing & other voluntary services.
- The services provided through the Program are voluntary, which means they are not required.
- To participate in the Program, you must enter into a Voluntary Services Agreement (VSA) with county where you live or a county that is currently serving/helping you.
- If you meet Program requirements, you may remain in the Program until the last day of the month you turn 21 (or a greater age set by federal law).
- If you choose to leave the Program before you turn 21 (or a greater age set by federal law), but later decide that you need support before you turn 21 (or a greater age set by federal law), you have the right to begin receiving voluntary services again through the Program.
- If you are not sure if you want to emancipate or enter the Program, or if you need more time to prepare for your emancipation, we can reschedule this hearing to another date up to 119 days from now.
- Have you had enough time to think about what you want to do?
- Do you have any questions about the Program?
- Do you want to enter the Program? *(If youth says yes, then verify the petition & Voluntary Services Agreement. If the youth says no, then ask the following. You can enter the Program later by contacting your attorney, the Office of the Child's Representative, or the county where you live. Do you have contact information for these people and/or offices?)*

### Emancipation Hearings: 19-3-705(4), 19-7-310(3), & 19-7-313

- If you emancipate (which means live on your own), you will no longer have access to financial support with housing & other services through the Program. You may qualify for other support through a county, but this court case will close.
- *Suggested questions include the following.*
  - *Have you had a chance to review your Emancipation Transition Plan with your caseworker and/or your attorney? Is your plan missing anything that you need to be a successful adult? Where will you live? Do you have health insurance? Are you in school or working? Do you have supports you can go to if you need help? What will you do if you need help?*
  - *Do you have all necessary records & documents? (Ask about the documents listed in the last text box on page 2.)*
  - *Did the county help you reach your goals & help you transition to adulthood? Why or why not?*
  - *Do you have any questions about emancipation?*
  - *Are you ready to close this case? Do you need anything else before it closes? Do you have any questions?*
  - *Are you enrolled in Medicaid? If you were in foster care & enrolled in state Medicaid when you turned 18, then you are eligible for Medicaid until you turn 26. For your Medicaid enrollment to stay active, you must provide accurate contact information to the county where you live or the Colorado Department of Health Care & Financing.*

### For youth aged 18-20 (or a greater age set by federal law) who emancipate **by choice**

- You have the right to stay in this Program until you turn 21 (or a greater age set by federal law).
- If you choose to leave the Program before you turn 21 (or a greater age set by federal law), but later decide that you need support before you turn 21 (or a greater age set by federal law), you have the right to begin receiving voluntary services again through the Program. You can reenter the Program by contacting your attorney, the Office of the Child's Representative, or the county where you live. Do you have contact information for these people and/or offices?

For youth aged 18-20 (or a greater age set by federal law) who emancipate **due to lack of eligibility**

- To qualify for the Program, you must substantially fulfill the obligations of your Voluntary Services Agreement (VSA). You are not substantially fulfilling the obligations of your VSA because *[state specific determination]*. So, you are not eligible to stay in the Program.
- If you meet Program requirements, you have the right to begin receiving voluntary services again through the Program. You can reenter the Program by contacting your attorney, the Office of the Child's Representative, or the County where you live at the time. Do you have contact information for these people and/or offices?

Delinquency Hearings: 19-2.5-613.

**Before terminating jurisdiction**, courts must advise youth aged 16 & older of the following.

- If you lived in foster care when you were 16 or older OR noncertified (which means unlicensed) kinship care & you were adjudicated dependent & neglected, then you have the right to receive voluntary services from the county between the ages of 18 & 21 (or a greater age set by federal law) through the Foster Youth in Transition Program. The Program can provide access to financial support for housing & other voluntary services if you meet Program requirements.
- Youth in the Program have a right to an attorney called Counsel for Youth or CFY. Among other things, your CFY will provide you advice about, & represent, what you want in your Program case.
- You can reenter the Program by contacting your attorney, the Office of the Child's Representative, or the County where you live at the time. Do you have contact information for these people and/or offices?

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## ADDITIONAL RESOURCES

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[Colorado Department of Human Services \(CDHS\) folder](#)

[Office of the Child's Representative \(OCR\) Youth Center](#)

[OCR Resources for Professionals](#)

[FYTP Pre-Convening Webinar](#)