

**WSR 24-21-014
EMERGENCY RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES**

[Filed October 3, 2024, 3:40 p.m., effective October 4, 2024]

Effective Date of Rule: October 4, 2024.

Purpose: The legislature enacted changes to the extended foster care (EFC) program that reduces systemic barriers to youth who are dependent at 18 years old and voluntarily enroll in the EFC program by eliminating the federal eligibility requirements for these youth. The changes also include the department of children, youth, and families (DCYF) accepting a youth's voluntary placement agreement (VPA) at 17.5 years old and for the youth to receive a supervised independent living (SIL) payment within one month of signing the VPA. DCYF must provide dependent youth aged 15 years and older with information about the EFC program. DCYF may only use the federal eligibility requirements as a means of receiving federal funding for youth who participate in EFC and meet at least one of the eligibility requirements. SB 5908 allows DCYF to establish an incentive program for those youth who meet one or more of the eligibility requirements. This emergency filing has been in effect since June 6, 2024, under WSR 24-13-010.

Citation of Rules Affected by this Order: New WAC 110-90-0021 and 110-90-0025; repealing WAC 110-90-0100, 110-90-0110, 110-90-0120, 110-90-0130, 110-90-0140, 110-90-0150, 110-90-0160, 110-90-0170, 110-90-0180, 110-90-0190 and 110-90-0200; and amending WAC 110-90-0010, 110-90-0020, 110-90-0040, 110-90-0050, 110-90-0060, 110-90-0070, 110-90-0080, and 110-90-0090.

Statutory Authority for Adoption: SB 5908, RCW 74.13.031 and 13.34.267, and 42 U.S.C. § 671-675.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The legislative changes are necessary for the preservation of public health, safety, and general welfare through: Eliminating federal eligibility requirements for youth to participate in the EFC program; requiring DCYF to provide an SIL payment to youth participating in the EFC program within one month of signing the VPA; and requiring earlier explanation of the EFC program for youth who are aged 15 and older.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 8, Repealed 11.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 8, Repealed 11.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 3, 2024.

Brenda Villarreal
Rules Coordinator

OTS-5477.2

Chapter 110-90 WAC
EXTENDED FOSTER CARE (EFC) PROGRAM

LEGAL BASIS, PURPOSE, AND DEFINITIONS

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-90-0010 ~~((What is the))~~ Legal basis ~~((of))~~ for the extended foster care (EFC) program ~~((?))~~. The legal ~~((authorities))~~ basis for the department's EFC program are:

- (1) ~~((Revised Code of Washington:))~~ RCW ~~((74.13.031 and))~~ 13.34.267;
- (2) ~~((United States Code:))~~ RCW 74.13.031;
- (3) 42 U.S.C. ~~((see:))~~ § 671-675; and
- ~~((3))~~ (4) The U.S. Department of Health and Human Services (DHHS) policy guidelines for states to use in determining a ~~((child's))~~ youth's eligibility for participation in ~~((extended foster care))~~ the EFC program ~~((s))~~.

AMENDATORY SECTION (Amending WSR 19-14-066, filed 6/28/19, effective 7/29/19)

WAC 110-90-0020 ~~((What is the purpose of the extended foster care program?))~~ Purpose. The ~~((extended foster care))~~ EFC program was established to provide ~~((s))~~ an opportunity for young adults who are dependent at age ~~((eighteen))~~ 18 to voluntarily agree to continue receiving foster care services ~~((r))~~ including:

- (1) Placement ~~((services, while the youth:))~~
- ~~((1))~~ (1) Completes a high school or a high school equivalency program;
- ~~((2))~~ (2) Completes a secondary or post-secondary academic or vocational program;
- ~~((3))~~ (3) Participates in a program or activity designed to promote employment or remove barriers to employment;
- ~~((4))~~ (4) Is engaged in employment for eighty hours or more per month;
- or

- ~~(5) Is unable to engage in subsections (1) through (4) of this section due to a documented medical condition) in a licensed, relative, or supervised independent living (SIL) setting;~~
~~(2) Assistance with meeting their basic needs;~~
~~(3) Independent living services;~~
~~(4) SIL subsidies;~~
~~(5) Medical assistance; and~~
~~(6) Mental health counseling or treatment.~~

NEW SECTION

WAC 110-90-0021 Definitions. The definitions in this section apply throughout this chapter.

"Department" or **"DCYF"** means the Washington state department of children, youth, and families.

"Extended foster care program" or **"EFC program"** means the same as defined in RCW 74.13.020.

"Youth" means the same as defined in RCW 13.34.030.

PROGRAM INFORMATION AND ELIGIBILITYNEW SECTION

WAC 110-90-0025 Information about the EFC program. (1) DCYF must provide youth age 15 and older with:

(a) Written documentation explaining the availability of the EFC program and services; and

(b) Instructions on how to access services after they have reached age 18.

(2) Youth may contact the following for further information on the EFC program:

(a) Their:

(i) Attorney;

(ii) Guardian ad litem (GAL); or

(iii) Caseworker;

(b) Local DCYF office;

(c) EFC website at www.dcyf.wa.gov; or

(d) 1-866-END-HARM.

AMENDATORY SECTION (Amending WSR 19-14-066, filed 6/28/19, effective 7/29/19)

WAC 110-90-0040 ((Who is eligible for extended foster care?))
Eligibility requirements for youth in the EFC program. (1) To be eli-

gible for the ((extended foster care)) EFC program, a youth, on ((his or her eighteenth)) their 18th birthday must:

- ~~(a) Be dependent under chapter 13.34 RCW; and~~
- ~~(a) Enrolled in school as described in WAC 110-90-0050;~~
- ~~(b) Have applied for, or can demonstrate intent to timely enroll in a post-secondary academic or vocational education program as described in WAC 110-90-0060;~~
- ~~(c) Participating in a program or activity designed to promote employment or remove barriers to employment as described in WAC 110-90-0070;~~
- ~~(d) Engaged in employment for eighty hours or more per month;~~
- ~~(e) Unable to engage in subsection (1)(a) through (d) of this section due a documented medical condition as described in WAC 110-90-0100; or~~
- ~~(f) Did not enroll in the extended foster care program; and~~
- ~~(i) Had their dependency dismissed on their eighteenth birthday;~~
- ~~(ii) Is requesting to enroll in the extended foster care program through a voluntary placement agreement (VPA) prior to reaching the age of twenty-one; and~~
- ~~(iii) Meets one of the criteria found in subsection (1)(a) through (e) of this section.~~

~~(2) A dependent youth in the custody of juvenile rehabilitation, the department of corrections, county detention, or jail who otherwise meets the eligibility criteria in subsection (1)(a) through (f) of this section may enroll in the extended foster care program.~~

~~(3) If the youth was in the extended foster care program but then unenrolled or lost their eligibility, the youth may reenroll in the extended foster care program through a VPA before the age of twenty-one. The youth must meet one of the criteria in subsection (1)(a) through (e) when requesting to reenroll in the extended foster care program.)~~

(b) Voluntarily agree to participate in the EFC program by:

- (i) Signing an EFC participation agreement between the ages of 17 1/2 and 18; or
- (ii) Having their dependency dismissed on their 18th birthday and signing a voluntary placement agreement (VPA) prior to reaching age 21.

(2) Youth:

(a) Whose dependency was dismissed on or after their 18th birthday remain eligible to enroll prior to their 21st birthday by:

- (i) Contacting DCYF to request enrollment; and
- (ii) Signing a VPA and EFC participation agreement.

(b) Who are or were in the custody of juvenile rehabilitation division, the department of corrections, county detention, or jail are eligible for enrollment in the EFC program if they meet the criteria in subsections (1) and (2)(a) of this section.

(c) Remain eligible for the EFC program regardless of the number of times they enter or exit the program as long as they:

- (i) Voluntarily agree to participate in the EFC program; and
- (ii) Have not reached their 21st birthday.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-90-0050 (~~((How does a youth demonstrate enrollment in school?))~~) **Youths' participation requirements.** (~~((Enrollment in school is shown by documented registration or acceptance in:~~

~~(1) **Secondary** — A high school, secondary education equivalency program, or a state accredited on-line or other approved secondary education program.~~

~~(2) **Post-secondary** — Post-secondary academic or vocational program.))~~ (1) Youth dependent at age 18 are eligible for EFC and must complete the following to participate in the EFC program, for youth entering:

(a) At age 18, they must voluntarily sign an EFC participation agreement; or

(b) After their minor dependency has closed between the ages of 18 and 21 they must:

(i) Sign an EFC:

(A) VPA; and

(B) Participation agreement;

(ii) Enter into a nonminor dependency action within 180 calendar days of the date they signed an EFC VPA to continue receiving EFC services as outlined in RCW 74.13.336.

(2) Youth participating in the EFC program acknowledge that DCYF has responsibility for their care and placement and the youth may authorize DCYF access to records related to their:

(a) Medical;

(b) Mental health;

(c) Substance use treatment services;

(d) Education records; and

(e) Additional records necessary to provide services.

RIGHTS AND RESPONSIBILITIES

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-90-0060 (~~((How does a youth demonstrate he/she has applied for and intends to timely enroll in a post-secondary program?))~~) **DCYF's responsibilities to youth participating in the EFC program.**

~~((1) Applied for intends to timely enroll in a post-secondary program is demonstrated by the youth:~~

~~(a) Completing and submitting an application to a post-secondary academic or vocational program; or~~

~~(b) Providing proof of Free Application for Federal Student Aid (FAFSA) submission.~~

~~(2) **Timely enroll** means participation in a post-secondary program in the next reasonably available school term.))~~ DCYF must:

(1) Have placement and care authority for EFC youth:

(a) And provide services that include, but are not limited to:

- (i) Transition planning and independent living services;
- (ii) Medical assistance through medicaid;
- (iii) SIL subsidy, if applicable; and
- (iv) Case management as defined in RCW 74.13.020;

(b) For the sole purpose of providing services to them. This does not create a legal responsibility of DCYF for the youths' actions receiving EFC services.

(2) Inform the court of the status of the youth, including:

- (a) Health;
- (b) Safety;
- (c) Welfare; and
- (d) Education status.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-90-0070 (~~((How does a youth demonstrate participation in a program or activity designed to promote employment or remove barriers to employment?))~~ **Youths' rights in the EFC program.** (~~((1) Actively participate in a state, federal, tribal or community program that addresses any barriers to employment that the youth may have and/or prepares or trains individuals for employment; or~~

~~(2) Involved in a self-directed program that will remove any barriers to employment and will prepare a youth for employment; or~~

~~(3) Working less than eighty hours a month.))~~ **Youth who voluntarily agree to participate in the EFC program have a right to:**

- (1) A foster care placement;
- (2) Medical assistance through medicaid;
- (3) Participate in court proceedings as a party to the case;
- (4) Have an attorney appointed for them upon filing a notice of intent to file a petition for dependency;
- (5) Referrals to community resources, if applicable; and
- (6) Enter or exit EFC at any time up to their 21st birthday.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-90-0080 (~~((What if an eligible youth does not want to participate in the extended foster care program?))~~ **EFC youth and their legal rights as an adult.** ((Participation in extended foster care is voluntary. A youth who does not agree to participate in extended foster care may request the court to dismiss his or her dependency case.)) **The EFC youth is:**

(1) A youth for the purposes of the dependency and must comply with the participation agreement requirements in WAC 110-90-0050.

(2) Responsible for their actions and has the legal status and legal rights of an adult including, but not limited to:

- (a) Purchases;
- (b) Driving;
- (c) Traveling; and
- (d) Financial obligations related to the activities they participate in.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-90-0090 (~~((What is a "documented medical condition"?)~~)
Youth exiting the EFC program. ((A "documented medical condition" is any physical or mental health condition documented by a licensed health care provider that may be temporary or permanent, including but not limited to, a physical injury or a physical or behavioral health condition. A "documented medical condition" may include physiological, mental, or psychological conditions or disorders, including but not limited to, orthopedic, visual, speech, and hearing impairments.))
Youth participating in the EFC program may voluntarily exit the program at any time prior to their 21st birthday, by notifying their:
 (1) Caseworker; and
 (2) Attorney.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 110-90-0100	How does a youth demonstrate the inability to participate in extended foster care (EFC) activities due to a documented medical condition?
WAC 110-90-0110	How does a youth agree to participate in the extended foster care program?
WAC 110-90-0120	Where do youth obtain information about how to participate in the EFC program?
WAC 110-90-0130	Can an extended foster care participant continue in extended foster care under a different eligibility category?
WAC 110-90-0140	If an extended foster care participant loses his or her eligibility before he or she turns twenty-one, may he or she reapply for extended foster care?
WAC 110-90-0150	What are DCYF's responsibilities to a youth who is participating in EFC?
WAC 110-90-0160	How does DCYF determine a youth's continuing eligibility for the EFC program?
WAC 110-90-0170	What are the legal rights of a dependent youth in EFC to travel out-of-state, buy a car, or engage in other activities as an adult?
WAC 110-90-0180	What are the youth's rights in the extended foster care program?
WAC 110-90-0190	What must the youth do to remain in the EFC program?
WAC 110-90-0200	When is a youth no longer eligible for the EFC program?