

Proposed Rule
LSA Document #09-167

DIGEST

Adopts a new rule, 465 IAC 2-14, concerning independent living transitional services plans (TSP). Defines eligible persons as including an individual who is between 16 and 21 years of age, has received foster care after age 16, and who is the subject of an open juvenile court case within 90 days before the individual will become 18 years of age. Also includes any individual who is or will become 18 years of age, or is emancipated by court order, while receiving foster care, or who is between 18 and 21 years of age and receiving older youth foster care under IC 31-28-5.7. Specifies referral procedures and life skills assessment requirements. Provides a procedure for development of a detailed personalized TSP, jointly by the youth and department of child services (DCS) or probation staff, with the assistance of other appropriate individuals identified and requested by the youth. Authorizes DCS to develop a plan for independent living services, which may include the required elements of a TSP, for a potentially eligible individual who is 15.5 years of age. Requires development and approval of a new or updated TSP for an eligible individual within 90 days before the individual becomes 18 years of age. Provides that the TSP will include details concerning specific options appropriate for the individual that include education and training, work force supports and employment services, housing, health care and health insurance, problem solving skills development, opportunities for continuing support services including availability of mentors, and availability of financial assistance from governmental or nongovernmental sources. Describes other independent living services that may be provided in a TSP or other plan for independent living, including a transitional living placement for an individual in foster care at 17.5 years of age or older. Specifies procedures for approval, amendment, duration, and termination of a TSP. Provides for independent living services through voluntary transition services agreements for certain youth for whom a TSP is not required. Specifies that DCS may develop and issue program services standards for independent living services provided through a TSP or voluntary transition services agreement.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

465 IAC 2-14

SECTION 1. 465 IAC 2-14 IS ADDED TO READ AS FOLLOWS:

Rule 14. Transitional Services Plans for Independent Living

465 IAC 2-14-1 Definitions

Authority: IC 31-25-2-18; IC 31-25-2-21
Affected: IC 31-25-2-21

Sec. 1. The definitions in sections 2 through 9 apply throughout this rule.

(Department of Child Services; 465 IAC 2-14-1)

465 IAC 2-14-2 Assigned monitor

Authority: IC 31-25-2-18; IC 31-25-2-21
Affected: IC 31-25-2-21

Sec. 2. “Assigned monitor” has the meaning set forth in 465 IAC 2-15-2.

(Department of Child Services; 465 IAC 2-14-2)

465 IAC 2-14-3 Eligible youth

Authority: IC 31-25-2-18; IC 31-25-2-21
Affected: IC 31-25-2-21

- Sec. 3. (a) “Eligible youth” means an individual who**
- (1) while receiving foster care, has become or will become**
 - (A) eighteen (18) years of age, or**
 - (B) emancipated by order of a juvenile court**
 - (i) under IC 31-34-20-1(a)(5), IC 31-37-19-1(a)(5), or IC 31-37-19-5(b)(5), and**
 - (ii) based on findings and terms in accordance with IC 31-34-20-6 or IC 31-37-19-27; or**
 - (2) is receiving foster care for older youth under IC 31-28-5.7.**
- (b) “Eligible youth” also includes an individual who**
- (1) is more than sixteen (16) and less than twenty-one (21) years of age,**
 - (2) has received foster care after attaining the age of sixteen (16) years, and**
 - (3) is the subject of a juvenile court case under IC 31-34 or IC 31-37 that is open within ninety (90) days before the youth will become eighteen (18) years of age.**

(Department of Child Services; 465 IAC 2-14-3)

465 IAC 2-14-4 Department

Authority: IC 31-25-2-18; IC 31-25-2-21

Affected: IC 31-25-2-21

Sec. 4. “Department” means the department of child services established under IC 31-25-1, or a local office of the department.

(Department of Child Services; 465 IAC 2-14-4)

465 IAC 2-14-5 Foster care

Authority: IC 31-25-2-18; IC 31-25-2-21

Affected: IC 31-25-2-21

Sec. 5. (a) “Foster care” means residential care and supervision of an individual who is less than twenty-one (21) years of age, subject to subsection (b) of this section, in any of the following categories of homes or facilities:

- (1) a foster family home licensed under IC 31-27-4, or applicable law of the state in which the home is located,**
- (2) the home of a relative of the individual, who is not the individual’s parent, if
 - (A) the home is not required to be licensed under IC 31-27-4, or applicable law of the state in which the home is located, and**
 - (B) the relative is primarily responsible for support and maintenance of the home,****
- (3) a child caring institution licensed under IC 31-27-3, or applicable law of the state in which the institution is located,**
- (4) a group home licensed under IC 31-27-5, or applicable law of the state in which the home is located, or**
- (5) a transitional living placement.**

(b) An eligible youth, as defined in section 3(a) of this rule, must be receiving foster care

- (1) while subject to
 - (A) wardship of, or court-ordered supervision by, the department, in a case pending under IC 31-34, or**
 - (B) court-ordered supervision by a county probation department, or wardship of a person or shelter care facility, in a case pending under IC 31-37****

under a dispositional decree entered by the juvenile court; or

- (2) in accordance with applicable provisions of IC 31-28-5.7 and 465 IAC 2-15, relating to older youth foster care.**

- (c) **“Foster care” does not include detention or housing of an individual in**
- (1) a juvenile detention facility, as defined in IC 31-9-2-71;**
 - (2) a facility operated by the department of correction;**
 - (3) a secure facility, as defined in IC 31-9-2-114, that is not licensed by the department; or**
 - (4) a forestry camp, training school, or any other facility operated primarily for detention of delinquent children.**

(Department of Child Services; 465 IAC 2-14-5)

465 IAC 2-14-6 Independent living services

Authority: IC 31-25-2-18; IC 31-25-2-21

Affected: IC 31-25-2-21

- Sec. 6. (a) “Independent living services” shall include**
- (1) a comprehensive, written, independent living assessment of the youth’s strengths and needs required to enable the youth to be self-supporting and to live independently in a self-sufficient manner, and**
 - (2) all services needed to implement a transitional services plan for the eligible youth.**
- (b) “Independent living services” may include any of the following kinds of services that are intended to prepare the youth for self support and living arrangements that are self-sufficient and not subject to supervision by another individual or institution:**
- (1) arrangements for and management of a transitional living placement for a youth who is seventeen (17) years and six (6) months of age or older, if appropriate;**
 - (2) activities of daily living and social skills training;**
 - (3) opportunities for social, cultural, recreational, and/or spiritual activities that are designed to expand life experiences in a manner appropriate to the youth’s cultural heritage and needs and any other special needs;**
 - (4) matching of a youth on a voluntary basis with caring adults trained to act as mentors and assist the youth to establish lifelong connections with caring adults; and**
 - (5) any other services that are eligible for federal financial assistance through the John H. Chafee Foster Care Independence Program, 42 U.S.C. 677.**

(Department of Child Services; 465 IAC 2-14-6)

465 IAC 2-14-7 Transitional living placement

Authority: IC 31-25-2-18; IC 31-25-2-21

Affected: IC 31-25-2-21

Sec. 7. “Transitional living placement” means an apartment or other semi-independent living arrangement

**(1) for youth who demonstrate progress in independent living skills, and
(2) that is arranged with approval of the department and that may be**

managed and monitored by

(A) the department,

(B) a licensed child placing agency that provides transitional living placement services in the department’s service region or other area that includes the placement location, or

(C) another person or entity with which the department contracts to manage a transitional living placement.

(Department of Child Services; 465 IAC 2-14-7)

465 IAC 2-14-8 Transitional services plan

Authority: IC 31-25-2-18; IC 31-25-2-21

Affected: IC 31-25-2-21

Sec. 8. “Transitional services plan” means a comprehensive written plan that is personalized for the eligible youth and that includes information and specific options relating to each of the following subjects:

(1) education and training;

(2) employment services and work force supports;

(3) housing, which may include a transitional living placement when appropriate;

(4) health care, including prevention and treatment services and referral information;

(5) procedures available under Indiana law for, and the importance of, stating in advance an individual’s desires concerning

(A) health care treatment decisions if the individual is unable to participate in those decisions when required, and

(B) designation of another person to make health care treatment decisions for an individual who is unable to make those decisions when required;

(6) the manner in which a health care treatment decision can be made for an incapacitated individual who has not made an advance designation of

another person through a procedure authorized by law, and the procedure for disqualifying specified individuals from participating in the decision;

- (7) health insurance availability and options;
- (8) local opportunities for mentors and continuing support services, including development of lifelong adult relationships and informal continuing supports;
- (9) identification and development of daily living and problem-skills;
- (10) any additional independent living services that are approved by the department and are appropriately tailored to the needs of the eligible youth; and
- (11) availability of local, state, and federal resources, including financial assistance, relating to any of the plan subjects described in this section.

(Department of Child Services; 465 IAC 2-14-8)

465 IAC 2-14-9 Youth

Authority: IC 31-25-2-18; IC 31-25-2-21

Affected: IC 31-25-2-21

Sec. 9. “Youth” means an individual who is fifteen (15) years of age or older, and less than twenty-one (21) years of age, unless otherwise specified in the applicable section of this rule.

(Department of Child Services; 465 IAC 2-14-9)

465 IAC 2-14-10 Requirements for Development and Completion of Independent Living and Transitional Services Plans

Authority: IC 31-25-2-18; IC 31-25-2-21

Affected: IC 31-25-2-21

Sec. 10. (a) If an individual who may become an eligible youth is in foster care at the time the youth becomes fifteen (15) years and six (6) months of age, the department, through its independent living staff or contracted independent living services provider, may develop, in conjunction with the youth, a plan for independent living services. If feasible and requested by the youth, the plan should be completed within thirty (30) days after the department’s family case manager assigned to the youth’s case has referred the youth to the appropriate independent living services staff or provider. The plan may include any independent living services described in section 6(b) of this rule. The plan may, but is not required to, contain all the elements of a transitional services plan, as defined in section 8 of this rule.

(b) If a transitional services plan for an eligible youth
(1) was developed as provided in subsection (a) of this section, and
(2) is in effect ninety (90) days before the youth's eighteenth birthday,
the department will, during the ninety (90) day period immediately before the date on which the youth will attain eighteen (18) years of age, assure that the existing plan is reviewed, revised, and updated for purposes of implementation after the youth becomes eighteen (18) years of age.

(c) If a transitional services plan
(1) was not developed under subsection(a) of this section, or
(2) is not in effect on the date ninety (90) days before an eligible youth's eighteenth birthday,
the department will, during the ninety (90) day period immediately before the date on which the youth will attain eighteen (18) years of age, develop or assure the development of an appropriate transitional services plan that will be approved for implementation beginning at the time the youth becomes eighteen (18) years of age, or at any later time as specified in the plan.

(d) If an eligible youth
(1) is receiving older youth foster care under IC 31-28-5.7 and 465 IAC 2-15, and
(2) does not have an approved transitional services plan in effect at the time the court approves the foster care placement,
the department will develop an appropriate transitional services plan for the youth within sixty (60) days after the effective date of the foster care placement, unless the time for completion of the plan is extended by the department permanency manager, or order of the court having jurisdiction over the placement.

(Department of Child Services; 465 IAC 2-14-10)

465 IAC 2-14-11 Procedure for Development of Transitional Services Plans

Authority: IC 31-25-2-18; IC 31-25-2-21

Affected: IC 31-25-2-21

Sec. 11. (a) If the eligible youth is in foster care under wardship or court-ordered supervision of the department, the department's family case manager assigned to the case will work with the youth, and with other representatives of the youth or persons acting on his or her behalf, to develop and complete the transitional services plan as required under this rule.

(b) If the eligible youth is in foster care under court-ordered supervision of a county probation department or wardship of a person or shelter care facility in a case under IC 31-37, the probation officer assigned to the case will have primary responsibility for working with the youth, and with other representatives of the

youth or persons acting on his or her behalf, to develop and complete the transitional services plan as required under this rule. If an independent living specialist employed by the department is not currently assigned to the case for purposes of monitoring, or assisting with implementation of, the youth's current case plan, the department will assign an independent living specialist or other appropriate staff resource to consult with and assist the probation officer, to the extent necessary or appropriate, in developing the transitional services plan.

(c) If, at the time for development of a transitional services plan, the eligible youth is residing in a

- (1) child caring institution licensed under IC 31-27-3,
- (2) group home licensed under IC 31-27-5,
- (3) foster family home licensed under IC 31-27-4 that is supervised by a child placing agency licensed under IC 31-27-6, or
- (4) any comparable residential facility in Indiana or in another state,

the assigned case manager of the facility or supervising placement agency will work with the youth and the department's family case manager, or the youth's probation officer, in developing and completing the plan.

(d) If, at the time for development of a transitional services plan, the eligible youth is residing in a

- (1) foster family home (including a relative home) licensed under IC 31-27-4,
- (2) an unlicensed relative home in Indiana, or
- (3) a licensed or unlicensed foster home or relative home in another state,

the family case manager or probation officer who is responsible for assuring the development and completion of a transitional services plan will consult with the youth's principal adult caretaker or supervisor who, with the youth's consent, will be provided the opportunity to participate in development of the plan.

(e) If, at the time for development of a transitional services plan, the eligible youth is receiving older youth foster care under IC 31-28-5.7 and 465 IAC 2-15, the assigned monitor will work with the youth in developing and completing the plan, and will, with the youth's consent, consult with the youth's principal adult caretaker in development of the plan.

(f) The eligible youth is primarily responsible for developing a transitional services plan that is personalized and as detailed as the youth desires, subject to feasibility and reasonableness. If the youth has a guardian ad litem (GAL) or court-appointed special advocate (CASA), the assigned family case manager or probation officer will, with the approval of the youth, ask the GAL or CASA to participate in development of the plan. In addition, the youth may request one or more other individuals to assist the youth in development of the plan.

(g) In developing a transitional services plan, the assigned family case manager, probation officer, or assigned monitor, will consult with each service provider who

is currently providing, or will provide, any independent living services to the eligible youth.

(h) In the event that

- (1) any dispute arises among the eligible youth, department staff, probation officer, or other individuals assigned to participate in development of the transitional services plan, and**
- (2) the dispute cannot be resolved by agreement of the individuals involved,**
the dispute may be submitted for resolution to the court having jurisdiction over the youth's case.

(i) The completed transitional services plan shall be submitted to the department's permanency manager or designee for review and approval. The permanency manager or designee may request any changes or additions to the plan that are necessary for compliance with this rule, or appropriate for the facts and circumstances of the case.

(j) The approved transitional services plan shall be documented in a written agreement signed by the following individuals:

- (1) the eligible youth;**
- (2) each service provider identified in the plan who will be responsible for implementing services to be provided under the plan;**
- (3) the department's family case manager, the county probation officer, or the assigned monitor, who is primarily responsible for completion of the plan as provided in this section; and**
- (4) any other appropriate person who is**
 - (A) requested by the youth to be a party to the agreement, and**
 - (B) identified in the plan as a signatory, by mutual agreement of all signatories.**

(Department of Child Services; 465 IAC 2-14-11)

465 IAC 2-14-12 Contents of Transitional Services Plans

Authority: IC 31-25-2-18; IC 31-25-2-21

Affected: IC 31-25-2-21

Sec. 12. (a) A transitional services plan shall include, at a minimum, the independent living services specified in section 6(a) of this rule.

(b) The transitional services plan may include any additional independent living services described in section 6(b) of this rule.

(c) All independent living services provided in the transitional services plan shall conform to the applicable service standards approved by the department for the

Chafee Foster Care Independence Program for which federal funding is provided under 42 U.S.C. 677, including services relating to mentoring and lifelong connections, that are in effect during the term of the plan.

(d) A transitional services plan shall also include documentation that the youth has been provided an explanation of, and an opportunity to sign after the youth has attained the age of eighteen (18), any health care power of attorney, health care proxy, or similar document recognized under Indiana law that the youth may request, which may include:

- (1) a health care power of attorney (IC 30-5-5-17),
- (2) appointment of a health care representative (IC 16-36-1-7),
- (3) a disqualification of designated individuals for purposes of making or participating in health care treatment decisions (IC 16-36-1-9),
- (4) a psychiatric advance directive (IC 16-36-1.7),
- (5) a living will declaration (IC 16-36-4-10),
- (6) a life prolonging procedures will declaration (IC 16-36-4-11), or
- (7) an out of hospital do not resuscitate (DNR) declaration (IC 16-36-5-15)

(Department of Child Services; 465 IAC 2-14-12)

465 IAC 2-14-13 Duration, Amendment, and Termination of Transitional Services Plans

Authority: IC 31-25-2-18; IC 31-25-2-21

Affected: IC 31-25-2-21

Sec. 13. (a) The approved transitional services plan document shall specify the term, including the commencement and expiration date. The expiration date shall be not later than the date of the youth's twenty-first birthday.

(b) The transitional services plan may be amended from time to time during its term, as necessary or appropriate in the circumstances, by agreement among the youth and other signatories to the plan or their successors in interest. Any amendment shall be submitted to the department's permanency manager or designee for approval. If an amendment involves a change in the principal service provider for any service identified in the plan, the signature of the new service provider, in place of the original service provider, shall be sufficient for approval of the amendment. An amendment shall not extend the expiration date to a time later than the date of the youth's twenty-first birthday.

(c) A youth may request termination of his or her transitional services plan before its specified expiration date by written notice delivered or mailed to the youth's supervising family case manager, probation officer, or assigned monitor. The family case manager, probation officer, or assigned monitor will deliver or send a copy of

the notice to all other signatories to the plan. The notice must state that termination is requested for one of the following reasons:

- (1) (A) the objectives of the plan have been substantially achieved, and**
- (B) the youth is currently capable of independent living and self-support without the need for continuing assistance, supervision, or oversight; or**
- (2) the youth desires to terminate all independent living services because of a change in circumstances relating to the youth's current living and support arrangements, as explained in the notice.**

(d) The department or probation officer may request termination, in whole or in part, of a transitional services plan before its specified expiration date, by written notice to the youth, with copies to all other signatories to the plan. A request for termination under this subsection must state that the youth is failing substantially to comply with any specified provisions of the plan, and include a statement of the specific facts and circumstances evidencing the alleged noncompliance. The notice shall specify a time at least thirty (30) days after the date of service of the notice as the effective date of the termination. The notice shall also specify the actions required to cure the alleged noncompliance before the termination becomes effective. The youth and any other plan signatory may submit a written response to a termination request under this subsection within fifteen (15) days after the date of service of the notice.

(e) A service provider signatory to a transitional services plan may give notice of termination of its duties and responsibilities under the plan, effective not earlier than thirty (30) days after the date of the notice, unless an earlier effective date has been established by agreement with both the youth and the supervising family case manager or probation officer. A notice under this subsection shall be delivered or mailed to the youth; the supervising family case manager, probation officer, or assigned monitor; and any other signatories to the plan except unrelated service providers. Upon receipt of a notice of termination under this subsection, the youth and the department or applicable county probation office will make every reasonable effort to locate and agree upon a substitute service provider before the effective date of the termination.

(f) A notice of termination under subsection (c) or (d) of this section shall be effective only upon approval of the court that has jurisdiction over the youth's case at the time the notice is served. The department or probation officer may recommend to the court any appropriate modification of the provisions of any existing dispositional decree or other order, to become effective upon approval of termination of the plan.

(g) Termination or amendment of a particular service provided or to be provided under the plan shall not affect any other provision of the plan or service provided under the plan.

(h) The provisions of the transitional services plan agreement under section 11(j) of this rule shall include the substance of the provisions of this section, relating to amendment or termination of the plan.

(Department of Child Services; 465 IAC 2-14-13)

465 IAC 2-14-14 Voluntary transition services

Authority: IC 31-25-2-18; IC 31-25-2-21

Affected: IC 31-25-2-7(9)

Sec. 14. (a) This section applies to a youth who is

(1) not an eligible youth, and

(2) eligible for voluntary transition services under subsection (b) of this section.

(b) The following youth are eligible for voluntary transition services provided through the department, under the Chafee Foster Care Independence Program, 42 U.S.C. 677:

(1) a youth between the age of eighteen (18) and twenty-one (21) years who

(A) is not currently receiving foster care,

(B) formerly received foster care after the age of sixteen (16) years for a period of at least six (6) months,

(C) at the time of receiving foster care was either

(i) under wardship or court-ordered supervision of the department pursuant to a dispositional decree in a child in need of services case under IC 31-34,

(ii) under court-ordered supervision of a county probation office, or under wardship of a person or shelter care facility, pursuant to a dispositional decree in a juvenile delinquency case under IC 31-37, or

(iii) in custody or under court-ordered supervision of an agency in another state based on a child abuse or neglect determination or juvenile delinquency adjudication, and

(D) had a case plan while receiving foster care that identified a need for independent living services.

(2) a youth between the age of sixteen (16) and twenty-one (21) years who

(A) formerly received foster care for a period of at least six (6) months,

(B) was receiving foster care at the date the youth became sixteen (16) years of age,

(C) at the time of receiving foster care was either

(i) under wardship or court-ordered supervision of the department pursuant to a dispositional decree in a child in need of services case under IC 31-34, or

(ii) under court-ordered supervision of a county probation office or wardship of a person or shelter care facility, pursuant to a dispositional decree in a juvenile delinquency case under IC 31-37, and

(D) at the time foster care ended was legally adopted or placed under legal guardianship.

(c) The department will make available to a youth described in this section appropriate independent living services, as described in section 6(b) of this rule, based on the terms and provisions of a voluntary transition services agreement among the department, the youth, and one or more appropriate service providers.

(d) The service provider will require that all youth receiving independent living services under a voluntary transition services agreement participate directly in the design of program activities and accept personal responsibility for meeting the independent living goals of the program.

(e) The department will assure that all youth receiving services under an independent living voluntary transition services agreement are referred for an appropriate life skills assessment and complete the assessment within thirty (30) days after the referral.

(f) A voluntary transition services agreement may include any of the services and subjects that would be required in a transitional services plan for an eligible youth, as determined by mutual agreement between the department and the youth.

(g) A voluntary transition services agreement shall include appropriate provisions for the time period during which services will be provided, including conditions for termination or reinstatement of services, based on applicable department policy. Services for which the department provides financial assistance may not extend beyond the date of the youth's twenty-first birthday.

(h) All services provided under a voluntary transition services agreement as described in this section shall conform to the applicable service standards approved by the department for the Chafee Foster Care Independence Program under 42 U.S.C. 677, that are in effect during the time the services are provided.

(Department of Child Services; 465 IAC 2-14-14)

465 IAC 2-14-15 Other Independent Living Services

Authority: IC 31-25-2-18

Affected: IC 31-25-2-7(9)

Sec. 15. (a) This rule shall not be construed to limit or otherwise affect eligibility of children or youth for voluntary independent living services provided by or through the department, for which funds are available under the Chafee Foster Care Independence Program, 42 U.S.C. 677, or any other available funding source, apart from a transitional services plan or voluntary transition services agreement as provided in this rule.

(b) The department may specify additional procedures and standards for independent living services by adoption of policies and service standards that are posted on the department's website and that are not inconsistent with any applicable federal or state statutes, regulations, or provisions of this rule.

(Department of Child Services; 465 IAC 2-14-15)