

Proposed Rule
LSA Document #09-168

DIGEST

Adopts a new rule, 465 IAC 2-15, concerning older youth foster care. Establishes eligibility requirements and conditions for consideration by the department of child services (DCS) of an application for assistance under the older youth foster care program for an individual who was receiving foster care under a court order in the month before the individual's eighteenth birthday, and who is between eighteen (18) and twenty-one (21) years of age. Specifies requirements relating to the individual's employment or educational program as eligibility conditions. Excludes individuals receiving funding through the department under the Chafee Independent Living Program (42 U.S.C. Section 677) for room and board services, or housing through the education and training voucher program. Provides procedures for application to the department for participation in the program, determination of eligibility, and filing of a petition in the appropriate court for receipt of foster care services through the program. Requires applicants to complete a background check (including criminal, delinquency, and child abuse or neglect history) and assessments relating to substance abuse, mental health, and developmental delay conditions. Specifies grounds for denial or conditional approval of participation in the program based on the results of the background checks and assessments. Provides conditions for continuation of an applicant in a current or former foster home placement, if requested by the applicant. Provides for payments to be made and services to be provided to or on behalf of an individual approved by the court for older youth foster care. Authorizes the department to establish guidelines and rules for the approved individual's continuing participation in the program, and to require participants to obey standards of conduct established by the foster care provider as a condition of residence in the home. Provides for a standard form of agreement between the department and the program participant. Specifies a procedure for monitoring compliance with program requirements, the terms of agreements between the department and the participants, and continuing eligibility of individuals receiving older youth foster care services. Specifies grounds and procedures for termination of participation agreements and services under the program. Provides a procedure for administrative review by the department of certain determinations under the program.

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

465 IAC 2-15

SECTION 1. 465 IAC 2-15 IS ADDED TO READ AS FOLLOWS:

Rule 15. Older Youth Foster Care

465 IAC 2-15-1 Definitions

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 1. The definitions in sections 2 through 7 apply throughout this rule, or as stated in the applicable definition.

(Department of Child Services; 465 IAC 2-15-1)

465 IAC 2-15-2 Assigned monitor

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 2. “Assigned monitor” means a department family case manager, independent living specialist, or independent living provider contracted by the department, who is assigned to oversee services provided to an older youth under this rule, during the term of an agreement and in accordance with section 15(f) of this rule.

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

465 IAC 2-15-3 Department

Authority: IC 31-25-2-18; IC 31-28.5-7-2

Affected: IC 31-28-5.7

Sec. 3. “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 2-15-3)

465 IAC 2-15-4 Foster care

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 4. (a) “Foster care,” as used in section 5 of this rule, means full-time residential care and supervision of an individual who is less than eighteen (18) years of age, away from the home of the individual’s parent, guardian, or custodian, in

which the individual was residing before commencement of a case under IC 31-34 or IC 31-37. Foster care placement includes, but is not limited to, placement in any of the following, regardless of whether payment for the placement is or has been made by the department or any other person or agency:

- (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, if the relative home
 - (A) 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) is not the home of a parent of the individual;
- (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) except as provided in subsection (c), any other home or facility in which the placement has been ordered or approved by a juvenile court in a case under IC 31-34 or IC 31-37.

(b) “Foster care,” for purposes of sections 13, 15, 16, and 18 of this rule, means residential care and supervision of an older youth in a foster family home licensed

- (1) under IC 31-27-4; or
- (2) in a state that adjoins Indiana, at a place that is not more than twenty-five (25) miles from the Indiana state line, if the youth previously resided in the same foster family home, as provided in section 13 of this rule.

(c) “Foster care,” for purposes of this rule, 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 2-15-4)

465 IAC 2-15-5 Older youth

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 5. “Older youth” means an individual who

- (1) is at least eighteen (18) and less than twenty-one (21) years of age; and
- (2) received foster care

(A) under wardship of the department, a person, or a shelter care facility, or under supervision of the department or a county probation office, and

(B) in accordance with a court order in a pending child in need of services case under IC 31-34 or juvenile delinquency case under IC 31-37

at any time during the month before the individual became eighteen (18) years of age.

(Department of Child Services; 465 IAC 2-15-5)

465 IAC 2-15-6 Older youth foster care services

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 6. “Older youth foster care services” or “OYFC services” means services provided to an older youth by or on behalf of the department, in accordance with section 15 of this rule,

(1) during the time the older youth is receiving foster care (as defined in section 4(b) of this rule), and

(2) pursuant to a court order entered under IC 31-28-5.7-1.

(Department of Child Services; 465 IAC 2-15-6)

465 IAC 2-15-7 Placement agreement

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 7. “Placement agreement” means a written agreement between an older youth and the department that states the terms and conditions of OYFC services approved by the department for the older youth, as described in section 15 of this rule.

(Department of Child Services; 465 IAC 2-15-7)

465 IAC 2-15-8 Eligibility for older youth foster care services

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 8. (a) An older youth may receive older youth foster care services, as provided in this rule and in accordance with department policies that implement this rule, if the older youth meets all of the following conditions:

- (1) The youth is either**
 - (A) employed by one or more employers, for compensation, for work regularly performed during at least thirty-five (35) hours per week;**
 - (B) (i) currently enrolled in good standing as a full-time student in a secondary school or a post-secondary vocational or educational certification or degree program, and**
 - (ii) making satisfactory academic progress, as determined by the department based on information provided by the school or program in which the youth is enrolled, toward completion of the requirements of the school or program for receipt of the applicable degree or certification;**
 - (C) enrolled as a full-time student in a school or program described in subdivision (1)(B) for the semester, term, or course of study that begins within three (3) months after the date the youth applies to the department for OYFC services as provided in this rule; or**
 - (D) intends to enroll within six (6) months after the youth's eighteenth birthday in a post-secondary vocational or educational certification or degree program that will commence within nine (9) months after the youth's eighteenth birthday;**
- (2) The youth is a bona fide resident of Indiana;**
- (3) The youth**
 - (A) is not married, or**
 - (B) has not been called into active duty as a member of any of the armed forces of the United States or the national guard, as specified in IC 5-9-4-1(a)(2);**
- (4) Except as provided in section 12 of this rule, the youth**
 - (A) has not been convicted of**
 - (i) any felony described in IC 31-27-4-13**
 - (ii) any misdemeanor relating to the health or safety of a child (as determined by the department),**
 - (iii) any other felony, or**
 - (iv) four (4) or more misdemeanors resulting from separate and unrelated acts or occurrences;**
 - (B) has not been adjudicated as a delinquent child under IC 31-37, or comparable law of another state, territory, or country, based on an act or acts that would be a criminal offense or offenses under Indiana law, described in subdivision (4)(A), if committed by an adult;**
 - (C) does not have a record of substantiated child abuse or neglect entered in the Indiana child protection index under IC 31-33-26, or in any comparable registry or index of child abuse or neglect determinations maintained by the United States or by any other state or United States territory or possession from which the department obtained background check information concerning the youth; and**

- (D) does not have a pending
 - (i) criminal charge of commission of any felony, or any misdemeanor relating to the health or safety of a child; or
 - (ii) petition filed under IC 31-37-10-3 alleging commission, before the youth became eighteen (18) years of age, of a delinquent act that would have been a felony, or a misdemeanor related to the health and safety of a child, if committed by an adult;
- (5) The youth is not named as an alleged perpetrator of child abuse or neglect in a report that the department has received and accepted for assessment under IC 31-33-8, unless the department determines that the report will be unsubstantiated regarding the youth;
- (6) The youth has completed, and the department has reviewed and evaluated the results of, the following procedures:
 - (A) a criminal history check (as defined in IC 31-9-2-22.5), and
 - (B) substance abuse, mental health, and developmental delay assessments, as provided in section 10 of this rule;
- (7) The youth has not previously received OYFC services that have been terminated pursuant to section 18 of this rule; and
- (8) The youth is not receiving any services or assistance described in subsection (b) of this section.

(b) If the older youth is participating in, and receiving assistance through the department under, any of the following programs, the youth is not eligible for OYFC services under this rule:

- (1) Room and board services under the Chafee Foster Care Independence Program, 42 U.S.C. 677; or
- (2) Financial assistance for housing under the education and training voucher program described in 42 U.S.C. 677(i).

(Department of Child Services; 465 IAC 2-15-8)

465 IAC 2-15-9 Application for older youth foster care services

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 9. (a) An individual who is or will become an older youth may submit to the department an application for OYFC services at any time after the date that is six (6) months after the youth became seventeen (17) years of age. The application shall include the information required in the form approved by the department for that purpose.

(b) The application should be submitted to the local office of the department in the county where the youth currently resides. The department will forward any

application received by the department's central office or another local office to the appropriate local office for review and processing.

(c) An application received as provided in this section will be referred to a family case manager supervisor, or other designee of the local office director, for review. The supervisor or designee will determine, based on the information provided in the application, whether the applicant meets the initial eligibility requirements for OYFC services as stated in section 8, other than completion of the procedures described in section 8(a)(6). The reviewing supervisor or designee may request the applicant to provide additional information if the supervisor or designee determines that the application is incomplete or that more facts are needed to determine eligibility of the applicant as provided in section 8 of this rule. The determination of the reviewing supervisor or designee regarding eligibility, based on the information submitted by the applicant, is subject to review and approval by the local office director.

(d) The supervisor or designee who determined eligibility under subsection (c) will send written notification to the applicant, within five (5) business days after receipt of the completed application (including any additional information requested as provided in subsection (c)), stating whether or not the applicant is eligible for OYFC services, subject to completion and approval of the additional requirements as specified in section 10 of this rule. If the notification states that the applicant is ineligible, it shall include the reason or reasons for that determination. The applicant may request a review of any determination of ineligibility, as provided in section 19 of this rule.

(Department of Child Services; 465 IAC 2-15-9)

465 IAC 2-15-10 Criminal history checks and assessments

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 10. (a) Upon determination under section 9 that an applicant for OYFC services meets the initial eligibility requirements, the local office of the department that made the determination shall do the following :

(1) Within five (5) business days after notification of eligibility under section 9(d)

(A) Provide the youth with information and directions regarding the required conduct of a criminal history check, and make arrangements for the steps necessary to complete that check; and

(B) Make arrangements for completion of assessments of the youth, as required by this rule and the policies and procedures of the department applicable to those assessments. All assessments shall be completed within thirty (30) days after the initial eligibility

determination under section 9 of this rule, unless extenuating circumstances require additional time for completion of any assessment. Any extension of time for completion of an assessment under this subdivision must be approved by the department's deputy director for field operations, or an executive manager or regional manager of the department as designee of the deputy director, and shall not exceed twenty (20) calendar days, unless the youth requests additional time for good cause and the additional time is approved by the department director or deputy director for field operations.

- (2) After receipt of the criminal history check and assessments as required under this subsection, review and evaluate the results of the criminal history check and assessments, and submit a written report and recommendation regarding those results to the department's permanency manager. The report shall be completed and submitted to the permanency manager within five (5) business days after receipt of the background check and assessment information, unless the permanency manager, for good cause, approves a request by the local office for an extension of time to complete the report, not exceeding an additional ten (10) business days.
- (b) Upon receipt of a report and recommendation from a department local office as provided in subsection (a) of this section, the permanency manager of the department, or a designee approved by the deputy director for programs and services, will make the determination whether to approve or deny the application, and transmit that determination to the local office.
- (c) The department will approve an application of an older youth who has been determined under section 9(c) to be eligible for OYFC services, if
- (1) the criminal history check report shows no record of
 - (A) a conviction of the applicant for any offense described in section 8(a)(4)(A) of this rule;
 - (B) a juvenile delinquency adjudication described in section 8(a)(4)(B) of this rule; or
 - (C) a determination of substantiated child abuse or neglect described in section 8(A)(4)(C) of this rule;
 - (2) the department has no knowledge or information that any criminal charge or delinquency petition has been filed against the applicant that
 - (A) alleges commission of an offense described in section 8(a)(4)(D) of this rule; and
 - (B) is awaiting final determination or disposition by a court;
 - (3) the department has not received a report under IC 31-33-7 that
 - (A) alleges the applicant is a perpetrator of child abuse or neglect (as defined in any provision of IC 31-34-1),
 - (B) the department has accepted for assessment under IC 31-33-8, and
 - (C) has not been, or will not be, determined to be unsubstantiated with respect to the applicant; and

(4) evaluation of the results of the assessments completed under subsection (a)(2) of this section establishes that the older youth has no
(A) history of alcohol or drug abuse that indicates a need for current treatment, counseling, or related services;
(B) current need for mental health services or treatment; or
(C) developmental delay or disability that requires special care, treatment, or services.

(d) If evaluation of the results of the assessments completed under subsection (a)(1)(B) and the report submitted under subsection (a)(2) of this section indicates a current need for special care, treatment, or services related to any condition described in subsection (c)(4), the department may, in its discretion, approve an application of an otherwise eligible older youth for OYFC services, if the department determines that

- (1) the necessary services can be provided through the transitional services plan and placement agreement for the older youth while the youth is residing in a foster family home as provided in this rule, and
- (2) a suitable foster family home is available or can be located that will
 - (A) reasonably accommodate the special needs of the youth, and
 - (B) provide for the necessary and appropriate care, supervision, and services for the youth, in accordance with the terms and provisions of this rule and an individual services plan and agreement tailored to the particular needs of the youth.

(Department of Child Services; 465 IAC 2-15-10)

465 IAC 2-15-11 Determination of eligibility for placement and services

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 11. (a) Upon receipt of the permanency manager's determination under section 10(b), the local office will send to the applicant written notification of the final approval or denial of the application. The notice shall be sent within fifteen (15) business days after the permanency manager receives the local office report and recommendation under section 10(a)(2), unless additional time, not to exceed ten (10) business days, is requested and approved by the deputy director for field operations, or by an executive manager or regional manager as designee of the deputy director. The applicant may request a review of the denial of an application under this subsection, as provided in section 19 of this rule.

(b) If the application is approved, the local office shall do the following:

- (1) Complete for signature of the youth and filing with an appropriate court a petition for approval of OYFC services for the applicant, pursuant to IC 31-28-**

5.7-1(b). The petition shall be filed within forty-five (45) days after the local office received the completed criminal history check and assessment results, unless additional time is requested due to extenuating circumstances and approved by the deputy director for field operations or designee.

(2) Participate in any hearings scheduled by the court for consideration of the petition.

(3) Subject to section 13 of this rule, make every reasonable effort to locate an appropriate foster family home that will

(A) provide a suitable home for the older youth during the time the youth is receiving OYFC services under this rule, consistent with the health and safety of household members and any other children placed in the home for foster care, and

(B) be available for acceptance of the older youth for placement at the time approval of the placement is anticipated.

(Department of Child Services; 465 IAC 2-15-11)

465 IAC 2-15-12 Conditional approval of applicant with certain criminal history

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 12. (a) This section applies if an applicant for OYFC services under this rule

(1) discloses in the application

(A) a conviction of, or a pending criminal charge relating to, an offense or offenses that are described in clause (iii) or (iv) of section 8(a)(4)(A) of this rule, or

(B) a juvenile delinquency adjudication, or a pending juvenile delinquency petition, relating to an act described in section 8(a)(4)(B) of this rule; or

(2) has a record of

(A) conviction of an offense, or a juvenile delinquency adjudication, as described in subdivision (1), or

(B) a substantiated determination of child abuse or neglect

as shown by the results of a criminal history check conducted as described in IC 31-9-2-22.5.

(b) This section does not apply to any applicant who

(1) has been convicted of, or has a pending criminal charge or juvenile delinquency petition concerning, any offense described in clause (i) or (ii) of section 8(a)(4)(A) of this rule, or

(2) is an alleged perpetrator of child abuse or neglect in a report described in section 10(c)(3) of this rule.

(c) The department may recommend approval of OYFC services for an otherwise eligible applicant described in this section, if the department determines that the youth

- (1) has been substantially rehabilitated following**
 - (A) conviction of the offense,**
 - (B) the delinquency adjudication,**
 - (C) commission of the act that is the subject of a pending criminal charge or delinquency petition, or**
 - (D) the substantiation of child abuse or neglect;**
- (2) does not have a continuing propensity to commit the offense or act that resulted in the**
 - (A) conviction,**
 - (B) delinquency adjudication,**
 - (C) pending criminal charge or delinquency petition, or**
 - (D) substantiated determination; and**
- (3) is likely to**
 - (A) benefit from OYFC services provided through the department under this rule, and**
 - (B) become capable, on a long term basis, of self-support and independent living through continued employment experience, or completion of a current or prospective educational program, with the assistance of available OYFC services.**

(d) If the department recommends approval of OYFC services under this section, the local office will include in its petition filed with the court under section 11(b) of this rule

- (1) a statement of the facts and circumstances relating to any conviction, delinquency adjudication, or substantiated determination described in this section and the experience of the older youth after the conviction, adjudication, or determination, and**
- (2) an explanation of the reasons for the recommendation for approval of the petition.**

(e) The court may, in its discretion, grant a petition for approval of a program of OYFC services for the older youth that is recommended by the department under this section.

(Department of Child Services; 465 IAC 2-15-12)

465 IAC 2-15-13 Continued placement in current or previous foster family home

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 13. (a) This section applies if the applicant for OYFC services requests in the application either

- (1) continuation of a current placement for foster care in a foster family home after the child in need of services case or delinquency case is closed, or**
- (2) placement in a foster family home in which the applicant had previously resided while in foster care under the jurisdiction of a juvenile court.**

(b) Upon approval under applicable provisions of sections 10, 11, and 12 of an application to which this section applies, the department local office will give preference to the placement requested by the applicant, subject to determination by the local office that

- (1) the placement is suitable for the applicant, based on**
 - (A) the facts and circumstances disclosed in the application, and**
 - (B) the results of the assessments and criminal history check required under section 10 of this rule;**
- (2) the placement will not endanger the health, safety, or welfare of any current resident of the requested foster family home, including any child placed in the home for foster care; and**
- (3) the foster family home licensee with whom the applicant requests to be placed has agreed to accept placement of the applicant in the licensee's home for the purpose of OYFC services.**

(c) The local office will not attempt to locate a new foster care home placement for an approved applicant for OYFC services if preference for a continuing or former placement is approved as provided in subsection (b) of this section, unless the approved placement subsequently becomes unavailable or terminates as a result of changed circumstances.

(Department of Child Services; 465 IAC 2-15-13)

465 IAC 2-15-14 Grounds for denial of final approval of application

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 14. (a) An application of an older youth for whom eligibility for OYFC services has been approved under section 9 may be denied for purposes of receipt of placement and services under IC 31-28-5.7 and this rule, for any of the following reasons:

- (1) The applicant made a materially false or misleading statement in the application, or knowingly omitted a fact or facts material to the determination of eligibility for OYFC services under this rule;**
- (2) The applicant has a record of**
 - (A) conviction of a criminal offense or offenses described in section 8(a)(4)(A) of this rule,**

- (B) a juvenile delinquency adjudication described in section 8(a)(4)(B) of this rule, or**
 - (C) a substantiated determination of child abuse or neglect described in section 8(a)(4)(C) of this rule**
- as shown by the disclosures in the application or the results of a criminal history check completed pursuant to sections 8(a)(5)(A) and 10 of this rule;**
- (3) The applicant has one or more pending criminal charges or juvenile delinquency petitions described in section 8(a)(4)(D) of this rule;**
 - (4) The applicant is named as an alleged perpetrator of child abuse or neglect in a report described in section 10(c)(3) of this rule; or**
 - (5) The results of the assessments described in sections 8(a)(6)(B) and 10 of this rule show that the applicant has a current need for**
 - (A) alcohol or drug abuse treatment, counseling, or related services,**
 - (B) mental health treatment or services, or**
 - (C) special care, treatment, or services relating to a condition of developmental delay or disability.**

(b) If an application is denied for any reason described in subsection (a)(4) or (a)(5) of this section, the department will assist the older youth in obtaining needed services by referral to one or more appropriate programs, facilities or other service providers that may be available to meet the needs of the older youth. The department is not required to pay for any services provided based on a referral under this subsection.

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

465 IAC 2-15-15 Services provided to approved applicants

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 15. (a) Upon final approval of an application for OYFC services and entry of a court order approving a petition filed under section 11(b) of this rule, the department will provide the services to or for the benefit of the older youth as described in this section.

- (b) The department will arrange for**
 - (1) appropriate foster care for the youth during the term of the agreement described in this section, or**
 - (2) continuation of the youth's current placement following closure of the juvenile court case, if the placement meets the conditions stated in subsection (c).**
- (c) A placement under subsection (b) of this section must be**

- (1) currently meeting, and expected to continue to meet during the term of the agreement, the needs of the older youth for an appropriate home of residence while the youth is preparing for self support, and**
- (2) agreeable to both the older youth and the adult residents of the home in which the youth is placed, as evidenced by a signed placement agreement in the form prescribed by the department.**

(d) The department and the older youth will jointly prepare a transitional services plan for the youth, as described in 465 IAC 2-14-8, in accordance with all applicable procedures described in 465 IAC 2-14, within sixty (60) days after a placement of the youth under subsection (b) of this section. The parties to the transitional services plan agreement will implement all provisions of the plan during the term of the placement agreement under this section.

(e) During the term of the placement agreement the department will make payment to the appropriate foster parent, on behalf of the older youth placed in foster care under this section, in an amount equal to the daily rate payable by the department for regular foster care for purposes of an out-of-home placement of a child over sixteen (16) years of age in a child in need of services case under IC 31-34.

(f) The department will select and designate an assigned monitor for the older youth, who will do the following:

- (1) monitor on a continuing basis the progress being made in implementing the transitional services plan prepared and approved under subsection (d) of this section;**
- (2) meet in person with the older youth from time to time as needed, at least once in each period of six (6) months while the placement agreement is in effect, to discuss implementation of the plan and agreement terms, and any other issues or concerns that the youth may have; and**
- (3) submit to the department local office for the county in which the placement home is located, at least every six (6) months during the term of the placement agreement, a written status report regarding implementation of the placement and transitional services plan agreements, including a summary of matters discussed at meetings pursuant to subdivision (2) of this subsection.**

(g) The department and older youth will sign a placement agreement, in a form approved by the department. The agreement will include the placement conditions, term during which the agreement will be effective, an outline of the services to be provided, the time each status report will be due as provided in subsection (f)(3), and the grounds for termination of the agreement as provided in section 18 of this rule.

(h) The placement agreement may be amended from time to time during its term, as necessary or appropriate in the circumstances, by written agreement between the older youth and the department. Any amendment shall be submitted to the

department permanency manager or designee for approval before its signature. An amendment shall not extend the expiration date of the term of the agreement to a time later than the date the older youth will become twenty-one (21) years of age.

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

465 IAC 2-15-16 Rules for conduct of youth receiving OYFC services

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 16. (a) The department may adopt policies specifying rules for the conduct and behavior of an older youth while receiving OYFC services through a foster care placement under this rule.

(b) Any rules of conduct included in a policy adopted under this section will be provided to the older youth upon signature of the placement agreement under section 15(g) and will be incorporated by reference in the agreement.

(c) An older youth placed in foster care under this rule must also comply with all reasonable standards of conduct established by the foster parents responsible for maintenance of the home, during the time the youth is residing in the home. If the youth believes that any standard or rule of conduct to which this subsection applies is unreasonable or oppressive, the youth may request a conference with the assigned monitor appointed under section 15(f). The assigned monitor will make a reasonable effort to mediate the issue and resolve by negotiation any dispute between the youth and the foster parents concerning standards of conduct applicable to the youth while residing in the home. If the dispute cannot be satisfactorily resolved by the assigned monitor, with assistance of the department local office if requested, the local office will attempt to locate a different foster family home that will accept placement of the youth during the remainder of the term of the placement agreement.

(Department of Child Services; 465 IAC 2-15-16)

465 IAC 2-15-17 Maintenance of eligibility during receipt of OYFC services

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 17. (a) Each older youth receiving OYFC services under this rule must maintain all applicable eligibility requirements, as specified in section 8, during the term of the placement agreement.

(b) If eligibility is based on full time employment, the youth must
(1) remain employed for at least thirty-five (35) hours per week, except as provided in subsection (c), and
(2) provide to the assigned monitor a monthly report documenting the youth's current employment status, in a form prescribed by the department.

(c) If the youth's full time employment is terminated by the employer without fault of the youth, the department local office and the assigned monitor will make every reasonable effort to assist the youth in locating another position that provides full time employment. The department may continue to provide OYFC services during the term of the placement agreement, as long as the youth is actively and diligently seeking new employment in cooperation with efforts made by the department to assist the youth for that purpose.

(d) If eligibility is based on enrollment or intent to enroll in a school or other educational program, as described in section 8(a)(1)(B), (C) or (D), the youth must
(1) complete enrollment in the school or program within the time specified in the placement agreement;
(2) remain in good standing in the school or program in which the youth is enrolled, until completion of the graduation or certification requirements of that school or program; and
(3) provide to the assigned monitor within thirty (30) days after the end of any grading period established by the school or program a report, in a form prescribed by the department, documenting the youth's educational status and progress, including any course grades or other progress documentation that the school or program provides to its students.

(e) If the youth is attending a school or educational program on a full time basis, the youth must
(1) maintain a grade point average of at least "C" or its equivalent, as determined by the school or program provider; and
(2) provide to the assigned monitor any documentation requested regarding continued participation in the educational program and progress made toward completion of all graduation and certification requirements.

(Department of Child Services; 465 IAC 2-15-17)

465 IAC 2-15-18 Termination of OYFC Services

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 18. (a) The department may terminate the placement agreement before the expiration of its term, in accordance with the procedure specified in this section

and without order of the court having jurisdiction over the older youth or the older youth foster care case, for any of the following reasons:

- (1) The youth fails to maintain the applicable program eligibility requirements, as provided in section 17;**
- (2) The youth fails to provide to the assigned monitor any monthly report as specified in section 17, within the later of**
 - (A) seven (7) days after the date the report is due, as provided in the placement agreement, or**
 - (B) seven (7) days after the youth receives a written or verbal reminder from the assigned monitor that the monthly report is overdue;**
- (3) The youth substantially or repeatedly violates any rules or standards of conduct specified in department policy, or required by the foster parent home in which the youth is residing for purposes of foster care, as provided in section 16 of this rule;**
- (4) The youth is**
 - (A) convicted of an offense described in section 8(a)(4)(A) of this rule;**
 - or**
 - (B) adjudicated a delinquent based on a petition described in section 8(a)(4)(D)(ii) of this rule**

unless the charge or petition on which the conviction or adjudication was based was disclosed and considered before approval of the placement agreement for OYFC services, pursuant to section 12 of this rule;

- (5) Subject to subsection (c), the assigned monitor or the department receives credible evidence that the youth is obtaining, distributing, or using one or more controlled substances or alcoholic beverages under circumstances prohibited by applicable state or federal law;**
- (6) Subject to subsection (d), a local office of the department has identified the youth as a perpetrator of substantiated child abuse or neglect, based on a report received and assessment completed after the date of signature of the placement agreement;**
- (7) The youth**
 - (A) has graduated from the school, or received the certification or degree from the educational program, that the department identified as the basis for eligibility of the youth for OYFC services under section 8(a)(1)(B) or (C) of this rule, and**
 - (B) is not employed, as described in section 8(a)(1)(A) of this rule;**
- (8) If eligibility of the youth for OYFC services was based on intent to enroll in a post-secondary educational program under section 8(a)(1)(D), the youth failed to**
 - (A) complete enrollment in the program identified in the application, or a comparable educational program approved by the department, within six (6) months after the youth's eighteenth birthday, or**
 - (B) begin attendance in the program within nine (9) months after the youth's eighteenth birthday;**

(9) The youth is terminated or voluntarily withdraws from the school or educational program in which the youth was enrolled as provided in section 8(a)(1)(B), (C), or (D);

(10) The youth has moved from the home in which the youth was residing for purposes of foster care, as provided in the placement agreement, without consent or approval of the department local office of the county where the home is located;

(11) The youth's transitional services plan agreement is terminated under any applicable provision of 465 IAC 2-14-13; or

(12) The assigned monitor recommends, and the local office director approves, termination of the placement agreement and OYFC services for other good cause.

(b) If criminal charges are filed against the older youth

(1) regarding an offense described in section 8(a)(4),

(2) after the date of signature of the placement agreement, and

(3) while the youth is receiving OYFC services under the placement agreement,

the department may suspend the OYFC services provided under the placement agreement or the youth's transitional services plan agreement, pending disposition of the charges. However, the department will continue to pay the applicable foster care rate to the foster care home, as provided in section 15(e) of this rule, if the youth continues to reside in the home while the criminal charges are pending.

(c) A termination based on subsection (a)(5) or subsection (a)(12) of this section will not be effective until a date stated in a written notice mailed or delivered to the older youth, that is not less than twenty (20) days after the date the notice is mailed or delivered. The notice shall include a statement of the specific facts on which the proposed termination is based, and will provide to the youth an opportunity to present to the local office director of the county where the youth is residing, by written response and by personal interview if requested, any reasons why the proposed termination should not be approved. The reasons may include evidence that the factual allegations stated in the notice are false or inaccurate.

(d) A termination based on subsection (a)(6) of this section will not be effective until completion of any administrative review and administrative hearing procedures, available under applicable rules or policies of the department, if the older youth timely submits a request for an administrative review or hearing as provided in those rules or policies.

(e) The older youth may terminate the placement agreement by giving written notice to the department that the youth

(1) intends to move from the foster family home in which placement for foster care was approved by the department to another independent living arrangement, without prior approval of the department, or

(2) subject to subsection (f), does not intend to complete the program or services identified in the placement agreement, or maintain the applicable employment or educational requirements as specified in section 17 of this rule.

(f) Termination of services provided under the older youth's transitional services plan agreement is subject to the procedures specified in 465 IAC 2-14-13.

(g) Whenever a placement agreement is terminated under this section, the local office will file with the court that approved the petition for OYFC services under IC 31-28-5.7-1(c) or section 12(e) of this rule a notice stating the effective date of termination, and request that the court terminate jurisdiction over the older youth and close the older youth foster care case.

(h) The provisions of the placement agreement described in section 15(g) shall include a summary of the grounds and procedures for termination of the agreement, as provided in this section.

(i) Upon termination of a placement agreement under this section, the assigned monitor will meet with the older youth to do the following:

- (1) review the provisions of the transitional services plan agreement, unless the transitional services plan agreement has been or will be terminated, and
- (2) provide to the older youth information concerning other services that may be available to assist the youth, including but not limited to voluntary transition services for which the youth may be eligible under any applicable provision of 465 IAC 2-14.

(Department of Child Services; 465 IAC 2-15-18)

465 IAC 20-15-19 Administrative review of certain determinations

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 19. (a) This section applies to any of the following determinations by the department under this rule:

- (1) determination by a local office director under section 9(c) that an applicant for OYFC services is ineligible, based on failure to meet an eligibility requirement specified in section 8;**
- (2) denial of an application for OYFC services, as provided in sections 10 and 11, for any reason specified in section 14; or**
- (3) termination of OYFC services before expiration of the term of the placement agreement, for any reason specified in section 18.**

(b) This section does not apply to any actions taken by the department under this rule, or any policies of the department that implement or relate to this rule, other than the actions described in subsection (a).

(c) An older youth adversely affected by any department action described in subsection (a) may request an administrative review of that action by submitting to the director of the department, or to the director of the local office of the department in the county where the youth resides, a written complaint, in a form prescribed by the department. The complaint must include a statement of the specific reason or reasons why the older youth believes that the department's decision was erroneous. The local office will provide to an older youth, on request, the complaint form to be completed for purposes of a request for administrative review under this section.

(d) A complaint under subsection (c) must be received by the department within thirty-three (33) days after the date of service on the older youth of written notice of the reviewable decision or determination. The notice must state the reason or reasons for the decision and the facts and circumstances on which the department relied in making its decision. For purposes of this subsection, date of service means the date the department or local office either personally delivered the notice to the older youth, or deposited the notice in the United States mail addressed to the older youth at his or her current or last known residence address.

(e) The department or local office will submit every complaint under this section that the department or a local office receives to the deputy director for programs and services, who will appoint a review panel for purposes of considering the complaint.

(f) A review panel appointed under subsection (e) will consist of the following three (3) members:

(1) a local office director or family case manager supervisor in the department's service region, established under IC 31-26-6-4, in which the complainant resides;

(2) the regional manager of the service region in which the complainant resides, or another regional manager of the department if the regional manager of the complainant's service region participated in making the decision that is the subject of the complaint; and

(3) an independent living specialist employed by the department.

All members of the review panel must be individuals who were not involved in making the decision or determination that is the subject of the complaint.

(g) The review panel will review all documents identified by the complainant or staff of the department that were considered in making the decision or determination, and any other documents submitted by the complainant with the complaint that may be relevant to the issues presented by the complaint. The review panel may, and if requested by the complainant shall, provide an opportunity for an

informal meeting with the complainant and one or more representatives of the department who participated in the decision or determination, for the purpose of discussing the reasons for the decision or determination and the basis for the complaint.

(h) The review panel may, in its discretion, receive and consider information or documents submitted by individuals other than the complainant, as requested or approved by the complainant or the department. However, the review panel will not hold a formal evidentiary hearing or receive testimony of witnesses.

(i) After completing its review of the complaint and the relevant documents or information provided, the review panel will prepare and submit to the deputy director for programs and services a written report containing its findings, conclusions, and recommended decision concerning disposition of the complaint.

(j) After receipt and review of the report of the review panel, the deputy director will send to the complainant a written decision concerning the disposition of the complaint. The decision of the deputy director will state the relevant facts and conclusions, and may affirm, modify, or reverse the decision or determination that is the subject of the complaint.

(k) The decision of the deputy director will be issued not later than sixty (60) days after the date the department received the complaint, unless additional time for completion of the review and preparation of the decision is approved by the director of the department, based on extenuating circumstances.

(l) The decision of the deputy director may be reviewed by the director of the department, upon written request submitted to the director by the complainant or local office director of the county where the complainant resides, within ten (10) days after the date of service of the decision. For purposes of this subsection, date of service means the date copies of the decision were deposited in the United States mail, addressed to the complainant at his or her last known place of residence and to the local office in the county of the complainant's last known residence.

(m) The decision of the deputy director, or the decision of the director if a review by the director is timely requested under subsection (l), shall be the final action of the department regarding any administrative review conducted under this section.

(Department of Child Services; 465 IAC 2-15-19)

465 IAC 2-15-20 Department policies regarding older youth foster care

Authority: IC 31-25-2-18; IC 31-28-5.7-2

Affected: IC 31-28-5.7

Sec. 20. (a)The department may specify additional procedures, and develop standard forms, as necessary or appropriate to implement the provisions of IC 31-28-5.7 and this rule, relating to approval of applications for, and administration of, OYFC services.

- (b) Any additional or supplemental procedures and forms shall be**
- (1) included or referenced in department policies,**
 - (2) posted on the department’s website, and**
 - (3) not inconsistent with any applicable federal or state statutes or regulations, or the provisions of this rule.**

(Department of Child Services; 465 IAC 2-15-20)