

## **10A NCAC 70B .0102 ELIGIBILITY**

(a) A county department of social services may determine a child eligible for foster care assistance payments if all the following factors are established:

- (1) The child has been removed from his or her own home or from the home of a specified relative by a judicial determination and placed in foster care as a result of that determination;
- (2) The placement of the child in foster care has occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of the child with the county department of social services, and such placement has not been in excess of 90 consecutive days unless there has been a judicial determination by a court of competent jurisdiction (within the first 90 days of such placement) to the effect that such placement is in the best interest of the child. If the voluntary placement agreement is continued for the second 90-day period, a new voluntary placement agreement must be completed and signed by all parties. The county department of social services must file a juvenile petition and a hearing must be held before the end of the second 90-day period, or the child must be returned home;
- (3) Responsibility for care and placement of the child is designated to the county department of social services by either the court order removing him or her from his or her home or by the voluntary placement agreement signed by the parent or guardian;
- (4) The child lives in:
  - (A) a foster care facility under the supervision of a county department of social services and licensed by the Department of Health and Human Services;
  - (B) a private child caring institution licensed or approved by the Department of Health and Human Services and in compliance with the Civil Rights Act of 1964, Title VI, 42 U.S.C. 2000d et seq., ("Title VI of the Civil Rights Act"), hereby incorporated by reference, including any subsequent amendments and editions. This Act may be accessed free of charge at <https://www.justice.gov/crt/fcs/TitleVI-Overview>;
  - (C) a private group home licensed or approved by the Department of Health and Human Services and in compliance with Title VI of the Civil Rights Act;
  - (D) a foster care facility under the auspices of a licensed or approved private child caring institution, provided such foster care services program has been licensed by the Department of Health and Human Services and is in compliance with Title VI of the Civil Rights Act;
  - (E) a foster care facility under the supervision of a private child placing agency (including those providing adoption services) and licensed by the Department of Health and Human Services;
  - (F) a foster care facility located in another state, provided such facility is in compliance with Title VI of the Civil Rights Act and is licensed or approved in the other state, and provided such placement has been approved under the appropriate interstate placement procedure; or
  - (G) an allowable independent supervised living setting for youth 18 or older; and
- (5) The child is in need of care that is not available in his or her own home or the home of a relative.

(b) A child placed in foster care who has attained 18 years of age may continue receiving foster care services and benefits until reaching 21 years of age if he or she enters into a voluntary placement agreement with the county department of social services, and meets one of the following:

- (1) Completing secondary education or a program leading to an equivalent credential;
- (2) Enrolled in an institution that provides post-secondary or vocational education;
- (3) Participating in a program or activity designed to promote or remove barriers to employment;
- (4) Employed for at least 80 hours per month; or
- (5) Is incapable of doing any of the previously described educational or employment activities due to a medical condition or disability.

(c) Court action terminating parental rights shall not render a child ineligible for foster care assistance benefits if that child is otherwise eligible. A child may be eligible for foster care assistance benefits until the final decree of adoption is issued.

*History Note:* Authority G.S. 108A-24; 108A-48; 108A-49; 131D-10.2; 131D-10.5; 143B-153.  
Eff. July, 1982;  
Amended Eff. March 1, 2017; April 1, 2003;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*