

SUBCHAPTER 70B - FOSTER CARE SERVICES

SECTION .0100 - FOSTER CARE SERVICES - GENERAL

10A NCAC 70B .0101 PURPOSE

The Children's Services Branch develops and carries out either directly or through local agencies a program of foster care services designed to preserve, rehabilitate, unite, reunite, and strengthen families; and to provide substitute care for children who must be temporarily or permanently separated from their natural families.

History Note: Authority G.S. 108A-24; 108A-48; 108A-49; 143B-153; Eff. February 1, 1976; Readopted Eff. October 31, 1977; Amended Eff. July 1, 1982; July 23, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

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.

10A NCAC 70B .0103 FOSTER CARE ASSISTANCE PAYMENTS

(a) Foster care assistance payments include food, and shelter, clothing, personal incidentals, and ordinary and necessary school and transportation expenses.

(b) County departments of social services may request reimbursement for providing foster care assistance payments to eligible children.

History Note: Authority G.S. 108A-24; 108A-48; 108A-49; 143B-153;
Eff. July 1, 1982;
Amended Eff. April 1, 2003; June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70B .0104 RELATIONSHIP TO CHILD SUPPORT ENFORCEMENT PROGRAM

(a) The county director of social services must refer recipients of foster care assistance payment to the child support enforcement program except when the county director of social services determines that a referral is not appropriate because one or more of the following circumstances exists:

- (1) The establishment of paternity or the securing of support is reasonably anticipated to result in:
 - (A) physical harm to the child;
 - (B) emotional harm to the child;
 - (C) physical harm to the foster parent or other caretaker with whom the child is living; or
 - (D) emotional harm to the foster parent or other caretaker with whom the child is living.
- (2) The child for whom support is sought was conceived as a result of forcible rape or incest.
- (3) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.
- (4) The parent(s) is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish him for adoption, and the discussions have not gone on for more than three months.
- (5) A parent is already ordered by the court to pay support.
- (6) The rights of both parents have been terminated by consent or court proceeding and the child may be legally placed for adoption by the county department of social services or a child placing agency.

(b) The county department's application for foster care assistance payments shall operate to assign to the state and the county in proportionate parts as described in General Statute 110-135 all rights to child support owed or paid for the eligible foster child by his parent.

(c) The caretaker relative from whose home the child is removed by voluntary placement agreement or court order shall be advised of the assignment of support rights, and shall be asked to sign a statement that he understands the assignment. His refusal to sign, however, shall not render the child ineligible for foster care assistance payments.

(d) Referral to the county's IV-D agency shall be completed for all foster care assistance cases in which deprivation is caused by absence of a parent, regardless of whether the paternity of a child born out of wedlock has been established.

History Note: Authority G.S. 108A-24; 108A-48; 108A-49; 110-128 through 141; 143B-153; Eff. July 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70B .0105 GOALS AND STRATEGIES

(a) The goal for each fiscal year commencing with the fiscal year which begins on October 1, 2011 is that of all the children in foster care receiving Title IV-E Foster Care Assistance the number of children who remain in foster care in excess of 24 months will decrease by 1.5 percent.

(b) The following steps shall be taken to achieve the goal stated in (a) of this Rule. The Department of Health and Human Services shall:

- (1) provide a preplacement preventive services program designed to help children remain with their families;
- (2) provide a post placement reunification services program designed to reunite children with their families in a timely fashion;
- (3) maintain a statewide information system;
- (4) insure that there is an individual case plan for each child in foster care;
- (5) insure that the status of each child is reviewed no less frequently than once every six months;
- (6) institute procedural safeguards to assure each child of a dispositional hearing in accordance with statutory requirements; and
- (7) institute procedural safeguards with respect to parental rights to be informed of changes in the child's placement and to visit the child.

History Note: Authority G.S. 108A-49; 143B-153; P.L. 96-272; Temporary Rule Eff. October 1, 1982, for a Period of 92 Days to Expire on January 1, 1983; Eff. January 1, 1983; Amended Eff. October 1, 2011; June 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0200 - RESOURCE ITEMS TO SUPPORT SCHOOL PARTICIPATION

10A NCAC 70B .0201 DEFINITIONS FOR SCHOOL PARTICIPATION RESOURCE ITEMS

10A NCAC 70B .0202 REIMBURSEMENT FOR SCHOOL PARTICIPATION RESOURCE ITEMS

History Note: Authority G.S. 108A-25; 108A-48; 143B-153; Eff. July 23, 1979; Amended Eff. June 1, 1990; Expired Eff. November 1, 2017 pursuant to G.S. 150B-21.3A.

SECTION .0300 – RISK ASSESSMENT

10A NCAC 70B .0301 WHEN TO COMPLETE A RISK ASSESSMENT

(a) For foster care services cases, the county director shall complete a structured risk re-assessment and reunification assessment for all cases in which family reunification is being considered as the permanent plan. If the court has relieved the agency of reunification efforts, completion of a structured risk re-assessment and reunification assessment is no longer required. The findings of the risk re-assessment and reunification assessment shall be used in developing a Family Services Case Plan with the family.

(b) For those cases in which children enter foster care and reunification is the permanent plan, the structured risk re-assessment and reunification assessment shall support the current case plan.

History Note: Authority G.S. 7B-907; 143B-153;

Eff. August 2, 1994;

Amended Eff. April 1, 2003;

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