



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: February 18, 2025
TIME: 9:04 AM

WSR 25-05-072

Agency: Department of Children, Youth, and Families (DCYF)

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 24-13-011 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR ; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW** _____.

Title of rule and other identifying information: (describe subject) Chapter 110-90 WAC Extended Foster Care (EFC). EFC Program provides youth who have or are aging out of foster care the ability to continue receiving placement and other services through DCYF.

The Child Welfare Division is making changes to the Extended Foster Care (EFC) Program WACs in chapter 110-90 WAC and other related rules as required by Senate Bill (SB) 5908. SB 5908 took effect June 6, 2024, under emergency status and reduces the eligibility requirements for youth who are dependent at age 18 to participate in the EFC program. The legislative changes reduce systemic barriers to youth who are dependent at age 18 and voluntarily enroll in the EFC program by eliminating the federal eligibility requirements. Youth remain eligible for the EFC program between the ages of 18 to 21.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
March 25, 2025		Telephonic	Comments can be made by calling (360) 972-5385 and leaving a voicemail that includes the comment, emailing the Rules Coordinator, or submitting comments to the online comment application linked below. All comments must be received by the date and time listed below.

Date of intended adoption: March 26, 2025 (Note: This is **NOT** the **effective** date)

<p>Submit written comments to:</p> <p>Name DCYF Rules Coordinator</p> <p>Address</p> <p>Email dcyf.rulescoordinator@dcyf.wa.gov</p> <p>Fax</p> <p>Other https://www.dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online</p> <p>Beginning (date and time) February 21, 2025 at 8:00 a.m.</p> <p>By (date and time) March 25, 2025 at 11:59 p.m.</p>	<p>Assistance for persons with disabilities:</p> <p>Contact DCYF Rules Coordinator</p> <p>Phone</p> <p>Fax</p> <p>TTY</p> <p>Email dcyf.rulescoordinator@dcyf.wa.gov</p> <p>Other Relay users dial 7-1-1</p> <p>By (date) <u>March 18, 2025</u></p>
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Purpose of the proposal and its anticipated effects, including any changes in existing rules: The WAC revisions will allow DCYF to be compliant with SB 5908 and reduce the barriers for youth to participate in the EFC program. These changes will increase financial support to those youth who were not previously eligible due to the federal requirements for the EFC program

Reasons supporting proposal: See Purpose

Statutory authority for adoption: Senate Bill 5908, RCW 74.13.031, RCW 13.34.267, and 42 USC sec 671-675.

Statute being implemented: Senate Bill 5908, RCW 74.13.031, RCW 13.34.267, and 42 USC sec 671-675.

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: (person or organization) Department of Children, Youth, and Families
Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Jordan Perin	Olympia, WA	509-319-0049
Implementation	DCYF	Statewide	
Enforcement	DCYF	Statewide	

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

No: Please explain: A cost benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328(5)(i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |
- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW _____.
- Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

Date: February 18, 2025

Name: Brenda Villarreal

Title: DCYF Rules Coordinator

Signature:

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

LEGAL BASIS, PURPOSE, AND DEFINITIONS

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

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

(1) ~~((Revised Code of Washington: RCW 74.13.031 and))~~ RCW 13.34.267;

(2) ~~((United States Code:))~~ RCW 74.13.031; and

(3) 42 U.S.C. ((see-)) § 671-675 ~~((; and~~

~~((3) The U.S. Department of Health and Human Services (DHHS) policy guidelines for states to use in determining a child's eligibility for participation in extended foster care programs)).~~

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

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

(1) Placement ~~((services, while the youth:~~

~~((1) Completes a high school or a high school equivalency program;~~

~~((2) Completes a secondary or post-secondary academic or vocational program;~~

~~((3) Participates in a program or activity designed to promote employment or remove barriers to employment;~~

~~((4) Is engaged in employment for eighty hours or more per month;~~
or

~~((5) Is unable to engage in subsections (1) through (4) of this section due to a documented medical condition))~~ in licensed or supervised independent living (SIL) settings;

(2) Assistance with meeting their basic needs;

(3) Independent living services;

(4) SIL subsidies;

(5) Medical assistance; and

(6) Mental health counseling or treatment.

NEW SECTION

WAC 110-90-0021 Definitions. The following definitions apply to this chapter:

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

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

"**Supervised independent living subsidy (SIL)**" means the same as defined in RCW 74.13.020.

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

PROGRAM INFORMATION AND ELIGIBILITY

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

WAC 110-90-0040 (~~(Who is eligible for extended foster care?)~~)
Eligibility requirements for youth in the EFC program. (1) To be eligible for the ((extended foster care)) EFC program, a youth((, on his or her eighteenth birthday)) must:

(a) Be dependent on their 18th birthday under chapter 13.34 RCW; and(÷

~~(a) Enrolled in school as described in WAC 110-90-0050;~~

~~(b) Have applied for, or can demonstrate intent to timely enroll in a post-secondary academic or vocational education program as described in WAC 110-90-0060;~~

~~(c) Participating in a program or activity designed to promote employment or remove barriers to employment as described in WAC 110-90-0070;~~

~~(d) Engaged in employment for eighty hours or more per month;~~

~~(e) Unable to engage in subsection (1)(a) through (d) of this section due a documented medical condition as described in WAC 110-90-0100; or~~

~~(f) Did not enroll in the extended foster care program; and~~

~~(i) Had their dependency dismissed on their eighteenth birthday;~~

~~(ii) Is requesting to enroll in the extended foster care program through a voluntary placement agreement (VPA) prior to reaching the age of twenty-one; and~~

~~(iii) Meets one of the criteria found in subsection (1)(a) through (e) of this section.~~

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

~~(3) If the youth was in the extended foster care program but then unenrolled or lost their eligibility, the youth may reenroll in the~~

~~extended foster care program through a VPA before the age of twenty-one. The youth must meet one of the criteria in subsection (1)(a) through (e) when requesting to reenroll in the extended foster care program.)~~

~~(b) Be under 21 years old; and~~

~~(c) Voluntarily agree to participate in the EFC program.~~

~~(2) To remain eligible for the EFC program, youth who meet the requirements in subsection (1) of this section and voluntarily left the EFC program prior to their 21st birthday may reenroll by:~~

~~(a) Contacting the department to request reenrollment;~~

~~(b) Signing a VPA; and~~

~~(c) Entering into a new nonminor dependency action within 180 calendar days of the date they signed a VPA in order to receive the EFC services outlined in RCW 74.13.336.~~

~~(3) Youth are eligible for the EFC program regardless of the number of times they enter or exit the program if they meet the requirements in subsection (1) of this section.~~

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

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

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

~~(2) **Post-secondary** — Post-secondary academic or vocational program.)~~ (1) Youth who meet the eligibility requirements in WAC 110-90-0040 may voluntarily sign an EFC participation agreement starting at age 17.5.

(2) Youth participating in the EFC program may authorize the department access to records related to their:

(a) Medical;

(b) Mental health;

(c) Substance use treatment services;

(d) Education records; and

(e) Other additional records necessary to provide services.

RIGHTS AND RESPONSIBILITIES

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

WAC 110-90-0060 (~~(How does a youth demonstrate he/she has applied for and intends to timely enroll in a post-secondary program?)~~) The responsibilities of the department to youth participating in the EFC program. (~~((1) Applied for intends to timely enroll in a post-secondary program is demonstrated by the youth:~~

- ~~(a) Completing and submitting an application to a post-secondary academic or vocational program; or~~
- ~~(b) Providing proof of Free Application for Federal Student Aid (FAFSA) submission.~~

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

- (1) Have placement and care authority for EFC youth in order to provide services that includes, but not limited to:
 - (a) Transition planning and independent living services;
 - (b) Medical assistance through medicaid;
 - (c) SIL subsidy, if applicable; and
 - (d) Case management as defined in RCW 74.13.020; and
- (2) Inform the court of the status of the youth, including:
 - (a) Health;
 - (b) Safety;
 - (c) Welfare; and
 - (d) Education status.

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

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

- ~~(2) Involved in a self-directed program that will remove any barriers to employment and will prepare a youth for employment; or~~
- ~~(3) Working less than eighty hours a month.)~~ Youth participating in the EFC program have a right to:
 - (1) A foster care placement;
 - (2) Medical assistance through medicaid;
 - (3) Participate in court proceedings as a party to the case;
 - (4) Referrals to community resources, if applicable; and
 - (5) Enter or exit EFC at any time up to their 21st birthday.

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

WAC 110-90-0080 (~~(What if an eligible youth does not want to participate in the extended foster care program?)~~) EFC youth and their

legal rights as an adult. (~~Participation in extended foster care is voluntary. A youth who does not agree to participate in extended foster care may request the court to dismiss his or her dependency case.~~) The EFC youth are:

(1) Considered youth for the purposes of the dependency and must comply with participation agreement required in WAC 110-90-0050 but have the legal status and legal rights of an adult.

(2) Responsible for their actions including, but not limited to:

(a) Purchases;

(b) Driving;

(c) Traveling; and

(d) Financial obligations related to the activities they participate in.

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

WAC 110-90-0090 (~~(What is a "documented medical condition"?)~~)

Youth exiting the EFC program. (~~(A "documented medical condition" is any physical or mental health condition documented by a licensed health care provider that may be temporary or permanent, including but not limited to, a physical injury or a physical or behavioral health condition. A "documented medical condition" may include physiological, mental, or psychological conditions or disorders, including but not limited to, orthopedic, visual, speech, and hearing impairments.)~~) Youth participating in the EFC program may:

(1) Voluntarily exit the program at any time prior to their 21st birthday, by notifying their:

(a) Caseworker; and

(b) Court; and

(2) Reenter EFC at any time prior to their 21st birthday if they meet the eligibility criteria outlined in WAC 110-90-0040.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|-----------------|---|
| WAC 110-90-0100 | How does a youth demonstrate the inability to participate in extended foster care (EFC) activities due to a documented medical condition? |
| WAC 110-90-0110 | How does a youth agree to participate in the extended foster care program? |
| WAC 110-90-0120 | Where do youth obtain information about how to participate in the EFC program? |
| WAC 110-90-0130 | Can an extended foster care participant continue in extended foster care under a different eligibility category? |

- WAC 110-90-0140 If an extended foster care participant loses his or her eligibility before he or she turns twenty-one, may he or she reapply for extended foster care?
- WAC 110-90-0150 What are DCYF's responsibilities to a youth who is participating in EFC?
- WAC 110-90-0160 How does DCYF determine a youth's continuing eligibility for the EFC program?
- WAC 110-90-0170 What are the legal rights of a dependent youth in EFC to travel out-of-state, buy a car, or engage in other activities as an adult?
- WAC 110-90-0180 What are the youth's rights in the extended foster care program?
- WAC 110-90-0190 What must the youth do to remain in the EFC program?
- WAC 110-90-0200 When is a youth no longer eligible for the EFC program?