

# North Dakota Foster Care Requirements for 18+ Continued Care

The requirements are relative to Fostering Connections to Success & Increasing Adoption Act of 2008, (P.L. 110-351), and NDCC §27-20.3-16. Every youth age 18 to 21, remaining in foster care or returning to foster care, must have the following judicial findings. The SFN 60, 18+ Continued Care Agreement” is a 90-day bridge to payment. Funding cannot continue after 90 days without each and every required finding.

It is highly recommended that the affidavit containing the case details *be “incorporate by reference and made part of this order.”*

Every 18+ Court Order Requires:	Legal Reference:
1. A <b>judicial determination</b> that [youth’s name] is between the ages of eighteen and twenty one years and is in need of continued foster care services.	NDCC §27-20.3-16(1) NDCC §27-20.3-16(4)(f)
2. A <b>judicial determination</b> that [youth’s name] is not a child in need of protection or delinquent.	NDCC §27-20.3-16(4)(a)
3. A <b>judicial determination</b> that [youth’s name] requests to [ <i>remain in</i> or <i>return to</i> ] foster care pursuant to the “continued foster care agreement”, willfully entered into between the Department of Human Services or its agent, the youth, and the foster care provider.	NDCC §27-20.3-16(4)(b) NDCC §27-20.3-16(4)(c)
4. FOR 18+ YOUTH CONTINUING IN FOSTER CARE a. A <b>judicial determination</b> that it is in the best interest of this youth to <u>remain in</u> foster care, and b. A <b>judicial determination</b> that reasonable efforts were made to meet this youth’s needs before a foster care placement for a youth remaining in care for continued foster care purposes. (Detail the agency efforts and list services provided to meet the youth’s needs.)	NDCC §27-20.3-16(4)(e) NDCC §27-20.3-18
5. FOR 18+ YOUTH RETURNING TO FOSTER CARE a. A <b>judicial determination</b> that it is in the best interest of this youth to <u>return to</u> foster care, and b. A <b>judicial determination</b> that reasonable efforts were made to meet the youth’s needs before a foster care placement. (Detail the agency efforts and list services provided to meet the youth’s needs.)	NDCC §27-20.3-16(4)(e) NDCC §27-20.3-18
6. A <b>judicial determination</b> that [youth’s name] has satisfied the education, employment or disability requirements as set forth by the law.	NDCC §27-20.3-16(4)(g)
7. A <b>judicial determination</b> that services have been/will be provided to assist the youth in making the transition from foster care to successful adulthood (independent living).	NDCC §27-20.3-01(12)(h)
8. A <b>judicial determination</b> that the [Zone or recognized Indian Tribe] shall continue to provide foster care case management.	NDCC §27-20.3-16(4)(h)
9. A <b>judicial determination</b> that the [Zone or recognized Indian Tribe] must have care and placement responsibility of this youth.	NDCC §27-20.3-16(4)(i)
10. A <b>judicial determination</b> that there are no grounds to file a petition to terminate parental rights.	NDCC §27-20.3-16(4)(k)
11. <i>Out of State:</i> For out-of-state placements the court must determine if the placement continues to be appropriate and in the best interest of the youth.	NDCC §27-20.3(12)(g)
12. <b>Permanency Hearing:</b> (All of the above language and detailed reasonable efforts for permanency) The 18+ youth will be required to appear at a Permanency Hearing before this court on or before 12 months from the date of the last permanency hearing, or 12 months from the date that the youth is considered to have entered foster care. a. A <b>judicial determination</b> with detailed findings that the agency has made reasonable efforts to finalize the permanency plan specific to the youth. b. For the permanency goal of <u>APPLA (Another Planned Permanent Living Arrangement)</u> , the court shall: i. Verify the youth is 16 years of age or older ii. Ask the youth whether they have a desired permanency outcome of APPLA, iii. Make a <b>judicial determination</b> explaining why APPLA is the best permanency plan for the youth, and iv. Identify the compelling reasons it continues not to be in the best interest of the youth to return home, be placed for adoption, be placed with a legal Guardian, or be placed with a fit and willing relative.	NDCC §27-20.3-16(4)(j) NDCC §27-20.3-24

**Court orders cannot exceed 12 months, nor be open-ended. NDCC 27-20.3-26 (2) and 42 U.S.C. § 675(5)(c).**

## Required Agency Actions For A Youth Age 18+:

Youth must be aging out of foster care, between the ages of 18 to 21, and willing to continue in foster care. If the current court order continues past the youth's 18<sup>th</sup> birthday, they must be willing to voluntarily continue in foster care when the court order expires.

Complete the SFN 60 "18+ Continued Foster Care Agreement". For youth voluntarily continuing in foster care, the agreement should be effective the date prior to the youth's 18<sup>th</sup> birthday. For youth returning to foster care, the effective date is the day they return to foster care.

### **AFFIDAVIT REQUIREMENTS:**

1. Complete an affidavit requesting agency placement and care responsibility at the time the youth voluntarily sign the SFN 60 - 18+ Continued Foster Care Agreement.
  - a) NOTE: For youth continuing in foster care, permanency findings are required **within 12 months** following the previous permanency hearing. When was the last permanency hearing?
2. Document the youth is not a child in need of protection or delinquent but is in need of continued foster care.
3. Document the youth's intent to remain in or return to foster care and reinforce that the youth has willingly entered into a three party 18+ Continued Foster Care Agreement with the agency and foster care provider.
4. Document foster care entry date or the date of return.
5. If the youth is continuing in foster care, document why it is in the best interest and provide the detailed reasonable efforts made for the youth to continue in foster care.
6. If the youth is returning to foster care, document why it is in the best interest and provide the detailed reasonable efforts made for the youth to return to foster care.
7. Document eligibility category/categories and provide case specific details regarding how they meet eligibility for 18+:
  - a) Education on a full or part time basis.
  - b) Employment with the youth working at least 80 hours per month.
  - c) Employment Preparatory Program designed to promote or remove barriers to employment.
  - d) Medical condition or disability in which the youth is unable to participate in educational or employment.
8. Provide detailed documentation to the court to show the agency:
  - a) Has made reasonable efforts to finalize a permanent plan specific to the youth. NDCC § 27-20.3-01 (12)
9. Describe the services that have/will assist the youth in making the transition to successful adulthood. List all independent living services offered to meet the youth's physical, psychological, emotional, and educational needs; such as job skills, education, safe housing, home management, self care, connections to family, peer connections, cultural identity, etc.
10. Provide detailed documentation of the steps the agency is taking to ensure that:
  - a) the youth's foster care provider is following the reasonable and prudent parent standard; and
  - b) the youth has regular, ongoing opportunities to engage in age or developmentally appropriate activities.
11. Document the agency's intent to provide ongoing case management.
12. Request placement and care with a Human Service Zone or Recognized Indian tribe.
13. Document if parental right have been terminated. If parental rights were not terminated, indicate there are no grounds to file a petition to terminate parental rights under NDCC §27-20.3-16(4)(k).
14. If applicable, provide information for out-of-state placements regarding whether the placement continues to be appropriate and in the best interest of the youth.

**PERMANENCY HEARING: Need all of the above as well as detailed permanency plan reasonable efforts**

15. Document the permanency goal for the youth.

### **For the permanency goal of APPLA (another planned permanent living arrangement):**

- a) Youth must be 16 years of age or older
- b) Discuss with the youth whether they have a desired permanency outcome of APPLA,
- c) Explain why APPLA is the best permanency plan for the youth
- d) Identify and list the compelling reasons it continues not to be in the best interest of the youth to return home, be placed for adoption, be placed with a legal Guardian, or be placed with a fit and willing relative.