



WESTERN MICHIGAN UNIVERSITY
Center for Fostering Success



**Supporting Education Plans for Youth in Foster Care:
What am I legally required to know?
What can I do to help?
by Licensed Michigan Attorney
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Supporting Education Plans for Youth in Foster Care: What am I legally required to do? What should I do to help?

February 17th 2015

Presented by:
Elizabeth Bowker, JD, LLM



Children in foster care are experiencing a national education crisis...

- Over 400,000 American children are currently in foster care. This is enough to fill the University of Michigan Football stadium four times (*AFCARS 2014 Report, Children's Bureau.*)
- 40% of youth in care are between the ages of 11 and 18 (*AFCARS 2014 Report, Children's Bureau.*)
- 37% of school-aged foster youth experience an average of 2.8 living arrangements during their first year in care (*The Center for State Child Welfare Data, 2012.*)
- 35% percent of youth have changed middle schools and/or high schools over 5 times by the age of 17 (*Courtney, Terao, & Bost, 2004.*)
- 50% of foster youth graduate high school by the age of 18, this is the lowest of any at-risk group that has been studied (*Barra & Berliner, 2013.*)
- 84% of foster youth reported to their guidance counselor that they wanted to go to college (*Courtney, 2004.*)

Defining Youth in Foster Care

- A foster youth is a “dependent” or “ward” of the Juvenile Court who lives in an out-of-home placement (relative, kinship or non-relative foster home, group home, secure treatment, residential or semi-independent living program.)
- There are also some youth on probation who have a placement order and are considered “foster youth” through the Child Protective Services system.
- Not all students who are living in shelters or group homes are considered foster youth.

Identifying Youth in Foster Care at Your School

Social service agencies do not always work directly with school districts. Typically teachers, counselors and administrators are not initially aware of which child is foster care. Many times school staff lean on the foster care placement when there is a problem that requires intervention by a foster care worker or foster parent.

- 1.) Communicate with front office, attendance officers, bus drivers, cafeteria staff, school social workers, school psychologists, and other elective classroom teachers.
- 2.) Use informal “eyes and ears” for red flags.
- 3.) Establish a relationship with your McKinney Vento Homeless Liaison and ask them to create a list of students who filled out identifying information on the McKinney-Vento enrollment form.
- 4.) Build a trusting relationship with your students and their caregivers. Talk to them about their living situations in a private space, using basic non-intrusive questions. Make sure to utilize tactics learned in sensitivity training.
- 5.) Protect confidential information.

Be Proactive!!!

“Homeless students are identified by school personnel and through coordination activities with other entities and agencies” [42 USC 1143 (g)(6)(A)(i)].

- Make sure you know the needs of your district’s specific “homeless” population and are familiar with their rights in order to help your Homeless Liaison identify youth.
- Attend yearly McKinney-Vento school trainings.
- Ask your principal for school staff forms that assist in identifying foster youth.
- Distribute materials provided by your homeless liaison.
- Avoid using the word “homeless” for the purposes of asking your students about their living situation to determine if they are in foster care.
- Explain that the purpose for asking is to determine if they are eligible for additional support and services.
- Stress confidentiality and privacy to students.
- Remember that not all youth in foster care are McKinney-Vento eligible.

Role Group	Connection to Homeless Students	Training
Administrators and teachers	May notice if a student is suddenly falling behind in school; coming to school fatigued, hungry, or wearing the same clothes; hoarding belongings; or having uncharacteristic discipline problems	Awareness of homelessness and behaviors that might indicate trauma and crisis related to homelessness, understanding of ways to discuss homelessness with students, familiarity with protocol for referring the student to the local liaison
Social workers, counselors, and nurses	May encounter students who are experiencing academic, behavior, health, or hygiene problems that may be related to homelessness	Awareness of homelessness and behavioral, mental, and physical health problems that might indicate trauma and crisis related to homelessness; understanding of ways to discuss homelessness with students; familiarity with protocol for referring the student to the local liaison
Secretaries and registrars	Often are the first people in a school to meet a family, child, or youth who may be experiencing homelessness when enrolling a child or youth; see addresses the family lists or multiple school enrollments that could indicate a homeless situation	Understanding of the definition of <i>homeless</i> ; awareness of what a parent or child might disclose that could indicate homelessness; understanding of how to determine if a family living doubled up may be homeless; proficiency with discussing homelessness discreetly and respectfully; familiarity with protocol for referring a family, child, or youth to the local liaison
Cafeteria workers	May see a student who is not eating because he or she did not bring lunch or did not have money to buy lunch, seems inordinately hungry, is asking peers for food, is taking large portions, or hoarding food; may overhear that a student is homeless; may have a special rapport with a student who discloses homelessness	Understanding of possible indicators of homelessness related to food, proficiency in discussing homelessness with students, familiarity with protocol for referring a student to the local liaison

The Child Welfare System

A child enters care after a CPS worker from DHS files a complaint with the courts due to safety concerns in the home related to suspected abuse or neglect. In emergency situations a child may enter foster care by the immediate removal from the home.

- 60% of children who enter foster care because of abuse and neglect.*
- 17% enter care because of the absence of their parents due to illness, death, disability or other health reasons.*
- 10% enter care because they have committed a juvenile status offense.*
- 5% are in care because of running away/truancy.*
- 5% are in care because for disability services, i.e. mental health care for a child with severe emotional disturbance.*

** Karen Spar, Specialist in Social Legislation Testimony before the Subcommittee on Human Resources, 1999.*

Key People Involved in the Life of Youth in Foster Care

Caseworker: The caseworker is responsible for ensuring that the child or youth's needs are met and that the child or youth receives all necessary and appropriate services while in foster care. The caseworker is either from the home county DHS or a private contracted child welfare agency. The case worker works with the youth and the family to develop a service plan so that the child can either 1.) Be reunited with their biological or adoptive family or 2.) find permanency with a qualified caregiver. The caseworker visits with the youth, biological parents, foster parents and biological siblings. They attended court hearings, report to the judge at mandatory court review hearings, writes reports on the family's progress and makes recommendations to the court about what should happen next.

Judge or Referee: Courts play a critical role, no child enters or leaves foster care without a court order. The judge makes the decision about risk of harm, parenting time, compliance with the case plan, and can make orders regarding services and appoint surrogate decision makers for the child.

Lawyer-Guardian Ad Litem (LGAL): The GAL is the Attorney who represents the best interests of the youth in care. The GAL will report to the court what the youth's current needs are, what the youth's wishes are and what the GAL thinks is in the best interest of the youth. The GAL also has the responsibility to explain the essential procedures, timelines and steps of the foster care process. The GAL is required to visit the youth once a month and attends all court hearings. Most importantly the GAL ensures that the youth is receiving the services ordered by the court.

- **Foster Parents:** Foster Parents are licensed by the state child welfare agencies and are responsible for the care and basic living essentials while the youth is in foster care. They should be included in discussions about the youth's ongoing specific needs. Foster parents should also be updated on the reunification plan or efforts for locating an adoptive family
- **Education Planner/Advocate:** The education planner or advocate is referred by DHS to help the foster youth and their worker create a education plan to ensure school success, guarantee educational services, help achieve high school graduation and assist with access to post-secondary programs and vocational schools. Planners and Advocates also serve as a primary resource for school staff on education matters and can sometimes act as surrogate parents for education decisions.
- **Therapist/Medical Providers/Community Mental Health Worker:** Provide necessary therapeutic and mental/physical health needs. Schools are encouraged to coordinate with caregivers when possible to ensure that the student is taking the proper medication, is receiving the necessary services/accommodations, and assist with special education certification and planning.
- **Wrap-Around Coordinator:** Case workers who are responsible for coordinating services such as access to assessments and treatment services. They also are responsible for bringing the multitude service providers together. Wrap-Around meetings care take place at the home, school, wrap- around office or DHS.
- **Court Appointed Volunteers:** Mentors and general advocate for youth. Reports to the judge on well-being and needs of youth in foster care.

National Breakdown of Foster Care Placements

- **Non-Relative Foster Family Home** - 47% (184,787)*
- **Relative Foster Family Home** - 28% (113,065)*
- **Institution** - 8% (32,602)*
- **Group Home** - 6% (32,602)*
- **Trial Home Visit** - 5% (21,241)*
- **Pre-Adoptive Home** - 4% (14,537)*
- **Semi-Independent Living** - 1% (4,486)*
- **AWOL/Unknown/Runaway** - 1% (4,450)*

* *AFCARS 2014 Report, Children's Bureau.*

8 Identified Barriers in Education for Youth in Foster Care

1. Inconsistent Education Information Sharing and Documentation.
2. Delayed Enrollment.
3. Lack of Placement Stability/School Transfers.
4. School Transportation.
5. Identifying Special Education Decision Makers and Delays Due to High Mobility.
6. School Discipline Resulting in Out-of-School Placement.
7. Credit Deficiencies and Lack of Support for Post-Secondary Education Programs.
8. Insensitivity, Misunderstanding and Isolation from School Community.

Fostering Connections to Success & Increasing Adoptions Act of 2008 (P.L. 110-351)

Congress determined that children in foster care are entitled to educational stability and that schools have a responsibility to ensure this.

- All foster care workers must keep education records as part of a written case plan, including:
 - Name and address of education provider.
 - Grade level performance.
 - School disciplinary records.
 - Transcripts/Report cards.
 - Special Education Records.

The Family Educational Rights and Privacy Act (FERPA)

1. Requires prior notice and consent before sharing *education records*.
2. Prohibits schools from disclosing personally identifiable information from students' education records without written consent from the *parent* or eligible student.

Education Records: Very Broad. Any records that are directly related to a student maintained by an educational agency or institution, or by a party acting for the agency or institution.

Parent: Natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

Important Exceptions for Youth in Foster Care



The Uninterrupted Scholars Act

- Signed into law by President Barack Obama on 1/14/2013.
- Amended FERPA in two major ways:
 1. Permits schools to release education records to “an agency caseworker or other representative of a State or local child welfare agency” who is responsible “for the child’s care and protection” without written consent of the parent.
 2. Allows schools to disclose student’s education records pursuant to judicial order, without notice to the parents.

Federal Letter to State Schools from the
U.S. Department of Education and
U.S. Department of Health & Human Services

April 24, 2013

“We believe that the Uninterrupted Scholars Act furthers efforts to build interagency collaboration-at the local, state and federal levels, between education and child welfare agencies. We encourage these agencies to share information about students in foster care to ensure the success of these students.”



Confidentiality under the Individuals with Disabilities Education Act (IDEA)

20 U.S.C. 1417(c), Parts B and C

The Uninterrupted Scholars Act also affects the confidentiality provisions under IDEA. The Uninterrupted Scholar's Act permits disclosure of information from the early interventions and education records of infants and toddlers and information regarding children with disabilities in foster care, without written consent from the parents.

Letter to Chief State School Officers from Chief Privacy Officer and Assistant Secretary of Special Education

May 27, 2014

“We encourage you to continue building interagency collaboration at the local and state levels between education and child welfare agencies to ensure continued access to services for children in foster care. We urge educational agencies and child welfare to work together to develop policies and procedures that permit the disclosure of education records of students in foster care placement to the students’ child welfare agency in the upcoming school year.”

The Uninterrupted Scholars Act

Points to Remember

- Schools are not required to disclose records, but are permitted and encouraged to.
- FERPA and IDEA still require school's to maintain record keeping on requests for access to records and actual disclosures of education records.
- Child welfare agencies can not re-disclose information to the majority of individuals or agencies.
- Education records can only be used for addressing the educational needs of the specific youth in foster care.
- Still applies to children over 18 if they are still in foster care.
- Education record sharing between schools and child welfare agencies is crucial for judges to do their job effectively. It assists in their decision on whether the foster care placement of the child is appropriate and in the child's best interest, whether the child is placed in the correct school programming and allows the judge to appoint a clear education decision maker.

Educational Data Typically Requested by Child Welfare Agencies and Foster Care Workers

- General education records, including: grades, credits earned, credits needed to graduate, disciplinary records, transcripts, attendance records.
- Special education records such as MET, IEPs, MDRSs, and any functional behavior assessments or behavior intervention plans.
- Any school evaluations including psychological, speech and language, social work, teacher observations, academic testing data and progress reports.
- Teacher, school administrators and IEP team members contact information.
- Transportation agreements, plans and contact information.
- Homeless Liaison Name and Contact information.
- Schools Student Handbook and Code of Conduct.

Types of Information Shared from the Child Welfare Agency to the School Administrators and Staff

Decisions to share confidential information must be made on a case-by-case basis, sharing should include only the minimum information necessary and only to the individuals who “need-to-know” the information in order to support the child’s education and well being.

It is **generally appropriate** for the child welfare agency and foster care worker to share the following types of information with relevant school personnel:

- Current address for child (highly sensitive and should be protected for safety.)
- Identity of team members and the individuals with authority to enroll the child in school.
- Case workers contact information
- Birth certificate and immunizations
- Certain sections of the Education Passport
- Previous Schools attended
- Transcripts, report cards
- Special Education or 504 eligibility and BIPs
- Vision or hearing evaluations
- Medicaid eligibility or number, if necessary for services

It may be appropriate for child welfare agency or foster care worker to share the following information with relevant school personnel (determinations are made on a case-by-case basis):

- Relevant court orders
- Contact information of the biological family
- If the child is in a relative or kinship foster placement.
- The Child's relevant medical, disability or health history.
- Mental or behavioral health issues.
- Medications, including psychotropic medications.
- Alcohol or substance abuse history and/or treatment (generally only with the consent of the youth or GAL.)
- Social history.
- History with law enforcement or juvenile justice.

It is **never** appropriate for the child welfare agency or foster care worker to share the following information with school personnel:

- Abuse/neglect history.
- Fact that the child was adopted.
- Name of the person who reported the abuse or neglect; if known.
- CPS/DHS investigation details.
- JJ or Adult Criminal charges brought against the foster youth, not resulting in a conviction.
- Biological or foster family income in order to determine services for the child in foster care.

Tips for Sharing Student-Specific Education Data Between Local Education Agencies and ISDs

- LEA school staff should call the incoming LEA's enrollment secretary/staff, guidance counselors and administrators to alert them of incoming transfer student who is in foster care and should inquire as to how the incoming LEA would like to receive the education records.
- Education record requests should be e-mailed or faxed when possible and should indicate that the student is in foster care (Fostering Connections Act) and/or that the student is eligible for services under the McKinney Vento Act.
- Records Offices should not withhold transcripts or records for outstanding school materials, fees, or fines.
- Special Education Staff should consult with the incoming LEA's Special Education Director on certification, programming, services and accommodations and promptly send over all necessary education documents
- Partner and Collaborate with Child Welfare Agencies in the creation of a "Foster Care Education Records Release." The release should list the education records routinely requested from LEAs by Child Welfare Agencies (i.e. including transcripts, test data, English Language scores, health and immunization records and documents for enrollment.
- Former teachers, school social workers, principals and teacher consultants should produce a narrative of the students strengths, weaknesses, classroom behavior, peer interactions, successful and unsuccessful interventions used and any other information that would be helpful to the new LEA in creating a successful education plan for the youth in foster care.
- Make sure all coursework grades and credits (even partial) are documented in the education record.

Overcoming Barriers to School Enrollment for Youth in Foster Care

Delays in school enrollment can occur when a child's entry into foster care requires the child to change schools or a subsequent change in living arrangement requires that the child change schools. Delays and barriers related to school enrollment significantly impact the educational experience and outcomes of students in foster care. Most delays in enrollment are due to:

- Partial or missing education records.
- Lack of knowledge on special enrollment procedures and exceptions for students in foster care under The McKinney-Vento Act.
- Confusion about who has the legal ability to enroll a student in foster care.
- The requirement of Residency affidavit, guardianship papers, and/or court orders.

No Child Left Behind Act of 2001

This law provides federal money to states to “ensure that children and youth in homeless situations receive a free, appropriate education.”*

The law aims to remove obstacles that delay enrollment or prevent access to public education for homeless students such as: residency requirements; mandatory documentation requirements prior to enrollment, such as education, medical and immunization records, or birth certificates; proof of guardianship requirements; and lack of transportation to school.

The 2001 amendment make children who are awaiting foster care placement eligible.*

**No Child Left Behind Act of 2001, 20. U.S.C. 6301*

The McKinney-Vento Homeless Assistance Act of 2001

The McKinney-Vento Act's protections apply to all children and youth who meet the Act's definition of homeless:

“...individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and includes (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; **or are awaiting foster care placement**”

U.S. Department of Education Non-Regulatory Guidance

“Local Education Agency liaisons should confer and coordinate with local public social service agency providers in determining how best to assist homeless children and youth who are awaiting foster care placement.” - U.S. Department of Education, *Education for homeless children and youth program non-regulatory guidance*, Washington DC, 2004.

In the absence of clear federal policy, states and localities have adopted different definitions of *awaiting foster care placement*.

<p>Ann Arbor, MI (Washtenaw Intermediate School District)</p>	<ul style="list-style-type: none">• Any temporary placement, which includes the child's initial placement upon entering care as well as other situations on a case-by-case basis.• To serve other children in out-of-home care, the district adopted a policy to provide McKinney-Vento-like protections to all youth age 14-21 in out-of-home care		<ul style="list-style-type: none">• Any placement that is not likely to be long term or permanent
		<p>Fairfax County Public Schools, VA</p>	
		<p>Minneapolis Public Schools, MN</p>	<ul style="list-style-type: none">• Emergency foster care placements intended to be temporary or short term while long-term placements are determined and arranged
		<p>Pima County, AZ</p>	<ul style="list-style-type: none">• Any placement not directly related to the child's permanency goals

Mckinney-Vento Homeless Assistance Act of 2001-Title X, Part C of the No Child Left Behind Act-Sec 725

“The school shall **immediately** enroll the homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.” [42 U.S.C. 11432(g)(3)(C)(i)]

For more information: www.serve.org/nche/ibt/sc_enroll.php

Immediate Enrollment Requirements Under the McKinney-Vento Act

- Immediate school enrollment, even if they lack required enrollment documents [42 U.S.C. 11432(g)(C), (g)(1)(H)(iv), (g)(1)(F)(ii)].
- The term ‘enroll’ and ‘enrollment’ include attending classes and participating fully in school activities [42 U.S.C 11434A(1)].
- “Immediate” means no later than the beginning of the next school day after the presentment for enrollment. If, despite all reasonable efforts, school officials are unable to enroll the child by the beginning of the next school day, the student should be no later than the second school day following presentment for enrollment.
- Schools can not delay enrollment if the foster parents, case worker or youth cannot produce the normally required documents, i.e. birth certificates, proof of guardianship, schools records, immunization records, ect.
- Schools must immediately enroll even if the parent or legal guardian has not signed the enrollment forms.
- Schools can not condition school enrollment upon the receipt of proof of legal guardianship by caregivers. Also the physical absence of a caregiver must not impede enrollment.
- **NO EXCEPTIONS!!!!** When in doubt, enroll the student immediately and contact your State Coordinator for Homeless Education with questions.

Tip: Denying immediate enrollment to a McKinney-Vento eligible student violates federal law and may put the student's foster care placement at risk.

Local Child Welfare Agency
School Enrollment Requirements for Case Plans

“Every child or youth in foster care must be provided the following educational services:

- Initiating enrollment and ensuring full-time school attendance within 5 days of initial placement or any placement change, including placement in residential care or emergency placements.”*

* *Children’s Foster Care Manual, State of Michigan, Department of Human Services, FOM 722-6, 2012.*

Fostering Connections to Success and Increasing Adoptions Act of 2008

In cases where remaining in the same school district is not in the best interest of the child (as determined by the child welfare agency), the *Fostering Connections to Success and Increasing Adoptions Act of 2008* requires that State Education Agencies (SEAs) and Local Education Agencies (LEAs) provide immediate and appropriate enrollment in a new school with the required education records.

H.R 6893 (110th) Fostering Connections to Success and Increasing Adoptions Act of 2008

Who Can Assist with School Enrollment Youth in Foster Care?

- Foster Parents
- Biological Parents (if education rights still in tact and no court order or safety concerns.)
- Youth
- GAL
- Case Worker
- Education Advocate
- Court Appointed Education Guardian

Practice for Facilitating School Enrollments

- Use School Residency Questionnaire in each enrollment packet to determine McKinney-Vento eligibility.
- Facilitate confidential conversations with the foster family, youth, or case worker behind closed doors. Emphasize services and a the foster student's rights and avoid the use of the word "homeless."
- If it is brought to your attention that special education services/accommodations were received at the previous school call the previous special education department/student services immediately. Gather data on foster youth and arrange for special education services/accommodations to start on the student's first day of school (even if the IEP hasn't been received from the previous school)
- Ensure the student receives free and reduced lunch without having to fill out paper work due to categorical eligibility.
- Work with district transportation staff and those of surrounding LEA's to coordinate transportation services, long term and temporary plan.
- Review previous high schools attended and send out immediate records request by fax or e-mail and request that they be sent back electronically.
- Set up emergency meeting with guidance counselor and use quick assessment check sheets and guides to determine which classes they should be enrolled in. Make sure the counselor double checks that the student is in the correct classes once the transcripts are received. Have follow up meeting with student to review credit audit and graduation plan.

- Instruct all school enrollment staff, secretaries, school counselors, school social workers and principals on McKinney-Vento Act's immediate enrollment requirements.
- Coordinate with classroom teacher, food service providers, coaches and bus drivers to ensure a positive welcome and sensitive approach to their new student.
- Attend or facilitate trainings on McKinney-Vento and Fostering Connections school enrollment, this can include brief updates during regular staff meetings or more intensive workshops.
- Create a uniform process for enrolling unaccompanied homeless youth in school, even when proof of guardianship is not available.
- Include information on the McKinney-Vento Act in parent handbooks and on the school districts website to ensure that parents and students have access to information about the education rights provided to homeless youth, even if they become homeless after school enrollment.
- Request that necessary school staff meet with the youth and the enrolling adult during their initial registration to eliminate the need for the foster youth and supporting adult to make additional trips to the school in order arrange necessary supports and services.
- Ensure the student receives text books, and necessary school materials before classes begin. and in a timely manner
- Collect child welfare agency case worker, GAL, private agency workers and the educational advocate's name, agency and phone and e-mail address. Also make copies of any releases provided to share information with involved agencies.
- Contact your district's homeless liaison.
- Take the student on a tour of the building, walk the student through their daily routine and introduce them to their advisory teacher or classroom teacher.

The Effect of School Transfers and Lack of Stability on Educational Outcomes for Youth in Foster Care

Foster youth live, on average, in two or three different places each year. When youth move, they often are forced to change schools. Studies indicate that frequent school changes negatively affect students' educational stability, and efforts must be made to keep them in the same school whenever possible. Studies indicate that it can take a student four to six months to recover academically after changing schools. School may be the one place the youth has had (and can continue to have) consistency and continuity.

The **McKinney-Vento Act** and **Fostering Connections to Success and Increasing Adoptions Act of 2008** both seek to promote the education stability for children in foster care. Many states also have their own laws to address school stability and continuity for children in foster care. The American Bar Association has named same school stability for foster care youth as their #1 goal in their nationally recognized *Blueprint for Change: Education Success for Children in Foster Care* (2008.)

The McKinney-Vento Act, School Stability and School Selection

- Foster youth frequently move, and maintaining a stable school environment is critical to their success in school. To ensure stability, local education agencies (LEAs) must make school placement determinations on the basis of “best interest” of the foster youth.
- The LEA is required to :
 - A. Continue the youth’s education in the school of origin for the duration of the academic school year; or
 - B. Enroll the child or youth in any public school that non-homeless students who live in the attendance area in which the child is actually living are eligible to attend.

Youth in Foster Care are Entitled to Remain in Their Same School When Feasible

Local education agencies or school districts must keep foster youth in the school of origin, to the extent feasible, except when doing so is contrary to the wishes of the guardian or youth. (42 U.S.C. 11432(g)(3)(B)(i), 2001.)

- *School of origin* is defined as the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled. (42 U.S.C. 114332(g)(3)(G) 20001.)
- Students can continue attending their school of origin the entire time they are homeless and until the end of any academic year in which they become permanently housed. (42 USC 11432(g)(3)(A)(i)(II), 2001.)
- If a student becomes homeless in between the academic years, he or she can continue attending the school of origin for the following school year. 41 U.S.C. 11432(g)(3)(A)(i)(I), 2001.)
- A student must be provided transportation to and from their school of origin at the request of the guardian or local liaison. (42 U.S.C. 11432(g)(1)(J)(iii) 2001.)

Local Attendance Area School Enrollment Option

- A McKinney-Vento eligible youth may enroll in any public school that non homeless students who live in the attendance area in which the youth is actually living are eligible to attend (the local attendance area school) (42 U.S.C. 11432(g)(3)(A)(ii), 2001.)
- Guarantees immediate enrollment in a new school if move to new local attendance area school is necessary, even if typical documentation required for enrollment is not available 42 U.S.C. 11431
- Local attendance area school is also commonly referred to as the student's "local school."

How is the School Selection Decision Determined?

- The school of origin's school district (LEA) determines the foster youth's best interest in respect for school selection.*
- U.S. Department of Education has clarified that the placement determination **MUST** be based on a student-centered, individualized analysis of factors relates to the child's safety and educational well-being.*
- Caseworkers, guardians and youth should all be involved in selecting the school.

* U.S Department of Education's *Education for Homeless Children and Youth Program Non-Regulatory Guidance* (2004, p. 14)

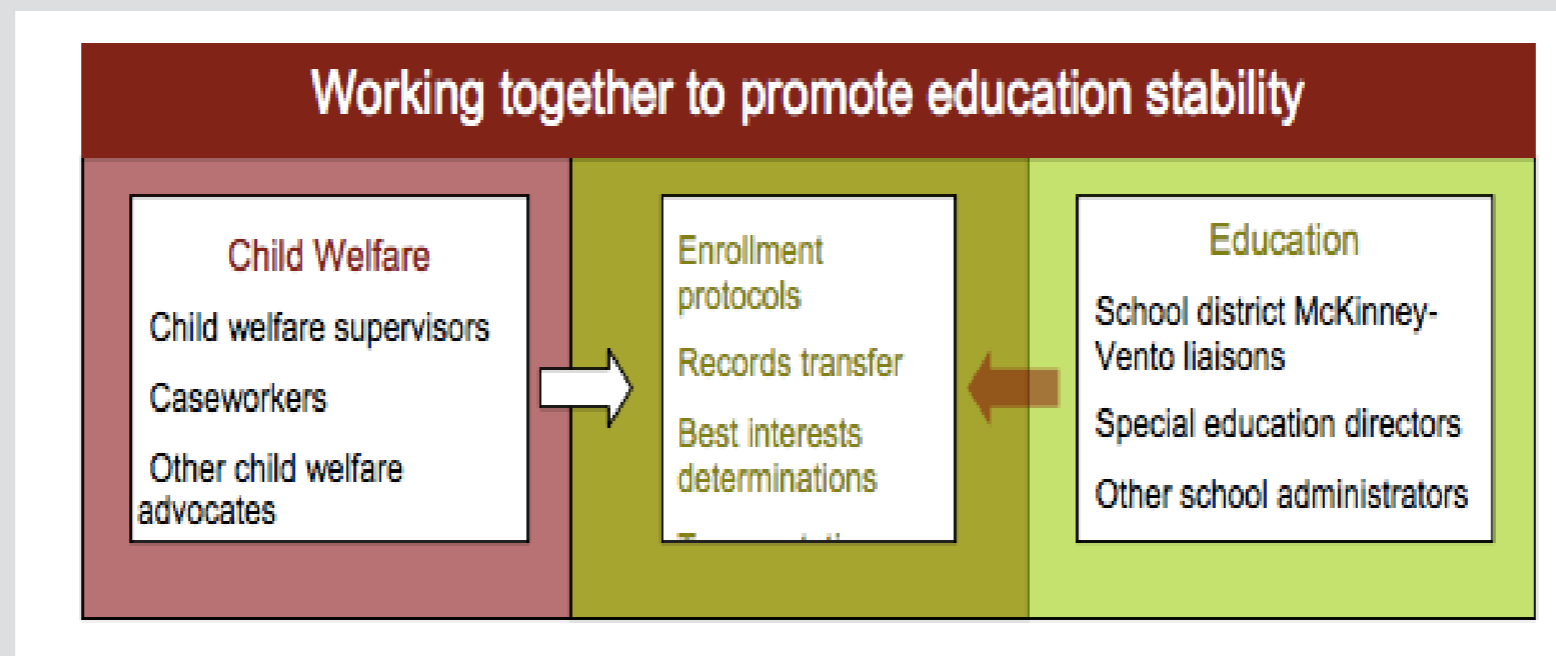
Determining Best Interest Under McKinney-Vento Eligibility

Factors that the school district may consider include:

1. Age of the youth.
 2. The distance of a commute and the impact it may have on the student's education.
 3. Personal safety issues.
 4. A student's need for special instruction (special education and related services).
 5. the length of anticipated stay in a temporary location.
 6. the time remaining in the school year.
- The cost of school transportation should NOT be a factor in deterring the best interest of the child for school selection purposes. Blanket limits on mileage or commute times are contrary to federal law and strictly prohibited.

Fostering Connections Act

- Specifically promotes education stability for youth in care.
- Applies to every child in out of home care, even youth who do not apply for McKinney-Vento services.
- Unless not in the child's best interest, the child welfare agency must work with the education agency to ensure the child can remain in their school at the time of placement.
- When staying in the same schools is not in the child's best interest, child welfare and local school districts must provide immediate and appropriate enrollment in a new school, with all of the education records of the child provided to the school.
- Legislative intent of providing children in foster care with school stability and continuity implied that child welfare's responsibility to "ensure" school stability for children in foster care includes providing transportation to the child's school when necessary and appropriate.
- When a student is both McKinney-Eligible and eligible under Fostering Connections the best interest determination is still made by the McKinney-Vento Liaison. When a child in out-of-home care is not eligible for McKinney-Vento, the child welfare agency has the responsibility to make the best interest determination.



Rights and Eligibility Under the McKinney-Vento and Fostering Connections Acts

LAW	WHO'S ELIGIBLE	RIGHTS				
		Remain in School	Transportation	Immediate Enrollment	Expedited Record Transfer	Designated Staff Resource
McKinney-Vento Homeless Assistance Act	Homeless children, including: children in emergency or transitional shelters, unaccompanied homeless youth, or those "awaiting foster care placement" as defined by state or school district policy or at the discretion of the McKinney-Vento Liaison.	If in their best interest, children are entitled to remain in their school of origin unless their parent disagrees.	LEAs are required to provide or arrange transportation to the school of origin. (When disputes between LEAs arise, they must split the cost.)	Schools must enroll children immediately, even without typically required documents (e.g. birth certificate, immunization record).	Schools must maintain records so they are available in a timely fashion when a child enters a new school or school district.	Every SEA has a McKinney-Vento State Coordinator and every LEA must designate a McKinney-Vento Liaison.
Fostering Connections to Success and Increasing Adoptions Act of 2008	Every child in out-of-home care.	Unless not in the child's best interest, the child welfare agency must work with the education agency to ensure child can remain in their school at the time of placement. ¹	No specific mandate, ² but for IV-E eligible children in out-of-home care, "foster care maintenance payments" may include reasonable transportation to a child's school.	When staying in the same school is not in the child's best interest, child welfare and LEAs must provide immediate and appropriate enrollment in a new school, with all of the education records of the child provided to the school.	When staying in the same school is not in the child's best interest, child welfare and LEAs must provide immediate and appropriate enrollment in a new school, with all of the education records of the child provided to the school.	Not specified.
McKinney-Vento AND Fostering Connections	Children in out-of-home care who are McKinney eligible including: children in emergency or transitional shelters, unaccompanied homeless youth, and those "awaiting foster care placement."	Unless not in the child's best interest, the child welfare agency and the McKinney Vento liaison must work together to ensure child remains in the school of origin. ³	Unless another state or local agreement exists between education and child welfare, LEA must provide transportation.	Child welfare agency and education agency must work together to ensure immediate enrollment, even without typically required documents.	Child welfare agency and education agency must work together to expedite record transfers.	Child welfare agency caseworker and liaison must work together to provide for all of the child's rights under both Acts.

Practices in Ensuring School Stability

- Inform guardians and case workers of children's rights under the McKinney-Vento Act.
- Individual schools and districts are essential partners! Team with child welfare agencies and caregivers.
- Work under a model that prioritizes that students stay at their current school, only change schools when in best interest.
- Provide and/or participate in training for school personnel on school selection rights and the importance of school stability.
- Encourage the case workers and guardian to make transitions at a time when disruption could be minimized, such as the the end of grading periods or over holiday breaks.
- Implement policies and practices to ensure that students can obtain school credit, even if they enroll mid semester.
- Talk to the youth in an effort to determine how deep the youth's ties are to their current school and how anxious they are about their upcoming move.
- Coordinate the transfer of schools with testing and projects.
- Send school records to the new school immediately and make every effort to ensure that they are delivered before the student arrives at new school.
- Collect samples of the students work to give to the guardians or send to the new school staff.
- Create a school selection check list for decision makers.

School Transportation

The FY 2000 Report to Congress cited lack of transportation as the number one barrier that homeless children and youth faced in attempting to enroll in and attend school regularly.

U.S. Department of Education's McKinney-Vento Report to Congress for Fiscal Year 2000.

- School districts must provide McKinney-Vento students with transportation to and from schools of origin. If the student is living outside of the origins district the school district where the student is living and the school of origin district must determine how to divide the responsibility and the cost of transportation. [42 U.S.C. 11432(g)(1)(J)(iii)(II). And must provide transportation while placement disputes are being resolved.
- The school's homeless liaison must ensure that the foster care worker and foster parent are fully informed of all transportation services. 42 U.S.C. 11432(g)(3)(A).
- Districts must ensure that transportation services are provided promptly and without delay for students who are McKinney Vento eligible. 42 U.S.C. 11432(e)(3)(E)(i)(III) This is required even if the district doesn't provide transportation to their general student population. (ED, 2004, H-6).

Practices for Removing Transportation Barriers for Youth in Foster Care

- Community collaboration and collaboration with foster parents.
- Avoid extremely early pick ups/extremely late drop offs and bus transfers for younger children.
- Sensitivity to confidentiality of living status.
- Train bus drivers and dispatchers on the rights and needs of foster youth.
- Encourage case workers to inform the key transportation contact of any placement moves.
- Advocate that foster care maintenance payments be used for school stability transportation (can be provided to the foster parent, or directly to the transportation provider.) U.S. Dep't of Health and Human Servs. Admin. for Children and Families, Guidance on Fostering Connections to Success and Increasing Adoptions Act of 2008, ACYF-CB-PI-10-11, 19 (July 9, 2010.)
- Advocate for transportation services be written into IEP's because of special education needs.
- Identify adults whose existing commute complements the child's transportation needs.

Special Education Barriers for Youth in Foster Care

- Numerous studies show that between 23% and 47% of children and youth in out-of-home care in the US received special education services at some point in their schooling.
- Many children who need this help are never identified, while others who need remedial help but do not have disabilities are wrongly identified as needing special education. Both of these issues are compounded when children in care move frequently.

Individuals with Disabilities Education Improvement Act (IDEA)

- The purpose of IDEA is to ensure that all children with disabilities receive a Free and Appropriate Education (FAPE), including special education and related services, to prepare them for further education, employment and independent living. [Part A, Sec. 601(d)(1)(A)].
- To be eligible the child must have a disability and require specialized services and accommodations in school. The instruction can take place in a general education classroom, special education classroom, specialized school, home, hospital or institution [Part A, Sec. 602(29)(A)] and may include academic or behavioral support, speech and language pathology services, vocational education, social work services, transportation, physical therapy, assisted technology, psychological services, recreation opportunities, counseling and certain medical services. [Part A, Sec. 602(26)].
- Eligibility and services are determined through evaluation and the development of an Individual Education Plan (IEP) [Part A Sec. 614(d)].

2004 Reauthorization/Amendments of IDEA

- The general requirements for a FAPE, evaluations, and IEPs are unchanged.
- Reinforced the timely assessment, appropriate service provision and placement, and continuity of services for children and youth with disabilities who are experiencing homelessness and/or in a foster placement.
- Now mentions specifically and observes the McKinney-Vento definition of “homeless children and youth.” Section 602(11); 34 C.F.R. 300.19
- The definition of “parent” has been changed, with the notable addition of foster parents to the list of persons considered “parents.” 34 CFR 300.30
- IDEA now contains the definition of “ward of the state.” Section 602(36); 34 C.F.R. 300.45

IDEA Definition of a Parent

IDEA only allows a “parent” to act on behalf of a student with a disability.

What Is the Definition of a Parent?

The federal definition of a parent is specified in the federal regulations implementing the IDEA at 34 CFR § 300.30.

(a) Parent means—

- (1) A biological or adoptive parent of a child;
- (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
- (3) A guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or
- (5) A surrogate parent who has been appointed in accordance with § 300.519 or § 300.639(a)(5) of the Act.

(b)(1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the “parent” of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the “parent” for purposes of this section.

The Role of Birth or Adoptive Parents as Special Education Decision Makers

- The law says that whenever a birth or adoptive parent is “attempting to act” on behalf of the child in the special education system, the school must treat that parent as the decision maker. The school can only accept the decision of another person when the birth or adoptive parent is not “attempting to act” on behalf of the child.
- Exception: If a court has appointed an alternative decision maker for the child. In that case, the school must treat the person appointed by the court as the only person authorized to make special education decisions for the child.
- Exception: “Ward of the State” status.

Ward of the State IDEA Definition

1. A foster child, unless the child's foster parent has been assigned the right to make educational decisions on the child's behalf by a judge overseeing the child's case or a public agency with the responsibility for the general care of the child.
2. Considered a ward of the state under state law;
3. Considered a ward of the court under state law; or
4. In the custody of a public child welfare agency.

Some states define “ward of state” broadly (for example, all children in custody of the child welfare agency) and other define it more narrowly (for example, children whose parental rights have been terminated.)

Special Rules for Wards of the State under IDEA

If a child is a ward of the State and is not living for his/her parent the school district does not need consent from the parent for an initial evaluation to determine if the child is a child with a disability if:

1. Despite reasonable efforts to do so, the school district cannot find the child's parent;
2. The rights of the parents have been terminated in accordance with state law or
3. The judge or public agency with responsibility for the general care of the child has assigned the right to make educational decisions and to consent for an initial evaluation to an individual other than the parent.
 1. Exception: Ward of the State does not include a foster child who has a foster parent who meets the definition of parent in 300.30.

“Wards of the State” and the Role of Biological Parents (IDEA)

- There is nothing in IDEA that terminates the rights of the student’s biological or adoptive parents from participating in the educational process of their child after a surrogate parent is appointed unless there is a court order terminating the parent’s rights.
- Where there is a biological or adoptive parent attempting to make educational decisions, he or she must be considered the parent for purposes of IDEA, unless there is a court order designating someone else.
- Applies to adoptive parents as well as biological parents.
- Preserve of the birth or adoptive parents’ rights to make education decisions whenever possible.

Role of Foster Parents in Special Education

(IDEA)

- A foster parent can serve as the IDEA parent. Schools should encourage foster parents to check with the child's caseworker, the child's attorney, or the judge to determine if they should be acting as the IDEA parent.
- An alternative surrogate parent should **not** be appointed for the child if they have a foster parent who meets the definition of a parent in 300.30.
- If the active birth parent disagrees with a special education evaluation or plan, the school may not go around the parent by getting consent of the foster parent.
- Federal law allows a judge to appoint a specific individual (not an agency) even if there are other "parents" available.
- GALs or Child's Attorney do not have the power to make special education decisions unless there is a court order or the attorney is the "surrogate" IDEA parent.

Exceptions: a court has decided that other person should make education decisions for the child, an engaged birth or adoptive parent is the child's IDEA parents, state law prohibits foster parents from performing this role

Surrogate “IDEA” Parents

The child welfare agency or judge may select a surrogate parent. Public agencies must ensure that a person selected as a surrogate parent-

1. Is not an employee of the school district or any other agency that is involved with the education or care of the child.
2. Has no personal or professional interest that conflicts with the interest of the child and
3. Has knowledge and skills that ensure adequate representation of the child.

- If the judge or child welfare agency does not appoint a IDEA parent then the Local Education Agency must assign a surrogate parent.
- GALs or Child’s Attorney do not have the power to make special education decisions unless there is a court order or the attorney is the “surrogate” IDEA parent.
- DHS, Children & Youth or Private Agency workers can not be LEA appointed Surrogates (educational advocates are not considered public agency workers for this purpose.)
- The surrogate parent must be identified not more than 30 days after the determination that the child needs a surrogate parent.
- Anyone, including case workers and probation officers, who believes that a student with a disability is in need of surrogate parent can request that the school assists in finding one. However there is no legal requirement that the local education agency or ISD grant this request if it does not believe that the IDEA requirements for a surrogate parent are met. Disagreements over surrogate parent appointments are addressed through mediation or state complaints with the MDE, OSE.

The School's Role in Appointing Parent Surrogates under IDEA

1. **Efforts to locate the parent** should begin immediately since the parent must participate in many timeline-driven decisions related to consent, evaluation, and potential educational placement and provision of FAPE.
 - Telephone calls, letters, visits to the parent's last known address and/or place of employment. Document reasonable efforts.
 - LEA's should continue to send notices to the parent whose educational rights are still intact, even during the process of appointing a surrogate parent.
 - A LEA cannot appoint a surrogate parent just because the parent refuses to participate in the special education process or if they think the parent is acting in a manner that is inconsistent with the best interest of the student.
2. **Recruit** an appropriate surrogate parent.
 - Should give first priority to relative, friend, or a court-appointed advocate.
 - Already knows the student and has a relationship with the student.
3. **Screen** for Conflict of Interest.
 - Make sure the potential surrogate is not an employee of the SEA, LEA or any other agency that is involved in the education or care of the student.
 - Has no personal or professional interest that conflicts with the interest of the student that the surrogate parent represents.
 - Has knowledge and skills that ensure adequate representation of the student.
 - A district or public agency may employ a person solely to serve in the capacity of a surrogate parent, employee conflict interests do not apply.
4. ISD should **provide trainings** to prospective surrogate parents on knowledge and skills to adequately represent the student in special education processes.

Exception: Parental rights are terminated, the court or child welfare agency has assigned the right to make educational decisions to another individual, natural or adoptive parents are deceased or deemed illegally incompetent, or if the youth resides in a group home, residential, or institution (case-by-case) or a youth is in an SIL placement with a person who acts as a parent.

Rights of a Surrogate Parent Under IDEA

- Access all the student's educational records.
- Represent the student in special education processes including, but not limited to, actions such as consent for evaluation and placement. Active participation in the IEP process.
- The right to receive notice of school district proposed actions regarding special education.
- Review and inspect any records collected, maintained, and used by an agency to make decisions affecting the student's educational program.
- Request an amendment of student records to identify the surrogate parent (34 CFR 300.618)
- Consent to the release of the student's educational records to appropriate parties.
- Represent an eligible or suspected-to-be eligible student in all matters related to suspension and expulsion including manifestation determination reviews, decisions involving changes of placement, and the provision of procedural safeguards.
- Standing to file a state complaint, request mediation or file a due process complaint on behalf of the student.
- Surrogate parents do NOT have any rights outside of the special education system.
- Surrogate parents should be dismissed if a conflict of interest arises, the student no longer needs special education services, the student reaches 18 and no legal guardian is appointed, another responsible adult is appointed to make educational decisions or the rights of the parents or guardian to make education decisions for the student is fully restored.

Barriers to Special Education For Youth in Foster Care Due to High Mobility

- Studies consistently document that significant percentages of children in foster care have special education needs and/or are receiving special education services. (National Foster Care Review Coalition, 2010.)
- Youth in foster care are between 2.5 and 3.5 more likely to be receiving special education services than their non foster peers. (Educational Outcomes for Court Dependent Youth, Castrechini, 2009.)
- Children in foster care who are in special education tend to change schools more frequently, be placed in more restrictive educational settings, and have poorer quality education plans than their non foster care peers in special education. (Geenen & Powers, 2006.)
- One study showed that 84% of foster youth whose screenings indicated potential special education needs did not receive related services within 9-12 months. (Petrenko, Culhane, Garrido, Taussing, 2011.)

IDEA's New Emphasis on Special Education for Foster Youth

- Child Find requirements in IDEA include a specific requirement that states ensure that homeless children and wards of the state with disabilities are identified, located, and evaluated. Section 612(a)(3)(A); 34 CFR 300.11
- Any state receiving IDEA funds must ensure that the requirements of the McKinney-Vento Act are met for all MKV eligible students with disabilities. And requires that states maintain a State Advisory Panel with a representative of the state child welfare agency responsible for foster care. Section 612(a)(11)(A)(iii); 34 CFR 300.149(a)(3), (a)(21); 34 CFR 300.167, 300.168(a)(5), 300.169
- IDEA specifically requires LEAs to ensure that assessments of children who change LEAs during the school years are coordinated with prior schools “as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.” Section 614(a)(1)(C), 34 CFR 300.301(c)

- If a child changes school districts before her initial evaluation has been completed, the new school district must still complete the evaluation within the same 60 calendar day timeframe (or state deadline) unless the new district “is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and the LEA agree to a specific time when the evaluation will be completed.” Section 614(a)(1)(C)(ii), 34 CFR 300.301(d)-(e)
- When children with current IEPs change LEAs during the school year, the new LEA is now specifically required to provide the children with a FAPE immediately, “including services comparable to those described” in the previous IEP, in consultation with the parents. The LEA can then either adopt the old IEP, or implement a new IEP. Section 614(d)(2)(C)(i), 34 CFR 300.323 (e)-(f)

IDEA and the Fostering Connections Act: Student Mobility

- FCA promotes school stability by requiring child welfare agencies to create “a plan for ensuring the education stability of the child while in foster care.” And requires “immediate and appropriate enrollment in a new school, with all of the education records of the child provided to the new school.” 42 U.S.C. 675(1)(G)(ii)
- Achieving full compliance with the FCA requires collaboration with the participation of state and local education agencies.
- FCA directs that in making decisions about a child’s foster care placement, the child welfare agency must take into account “*the appropriateness of the child’s current educational setting...*” 42 U.S.C. 675(1)(G)(i). It is important to inform the child agency worker with what kind of help the child needs, what special education services the child is receiving, whether the programs and services in the IEP are still appropriate, how the child is progressing, and whether the services in the IEP are being delivered to the child in the least restrictive environment to the maximum extent appropriate to the needs of the child.
- FCA mandates that when a child changes schools, he or she must be promptly enrolled in the new school with all school records. 42 U.S.C. 675(1)(G)(ii)(II). IDEA does not set deadline, but states “the new school district in which the child enrolls must take reasonable steps to promptly obtain the child’s records, including the IEP and other records relating to the provision of special education and related services..and the previous agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new agency.” Section 614(d)(2)(C)(ii); 34 CFR 300.323(g)

IDEA and FCA Transition Plan Requirements

- **IDEA**: Beginning no later than the first IEP to be in effect when the child turns 16 (many states 14), a student's IEP must include appropriate measurable post secondary goals (based on assessments related to training, education, employment and independent living skills) and the transition services needed to reach those goals. 34 C.F.R. 300.320(b). The student must also be invited to attend any meeting at which transition goals and services are being discussed; if the student does not attend, the school district must take steps to ensure that the student's presences and interests are considered. 34 C.F.R. 300.321(b).
- **FCA**: By age 16 the youth's case plan must contain a description of the services needed to help the youth's transition from foster care to independence, including planning and services related to education. At least 90 days before a youth ages out of care, a transition plan must be developed with the youth. The child welfare agency must provide the youth with assistance and support in developing a transition plan that is detailed and organized and includes specific options on education and employment services. 42 U.S.C. 675(5)(H).

Fostering Connections Act, IDEA and Placement in Residential Settings

- Children who are eligible for special education who live in residential facilities, either for special help or because no foster family is available, have the same right to appropriate special education programs, placement in the least restrictive environment, and procedural safeguards-to all IDEA protections-as children living with their birth or foster parents.
- The child welfare agency must make a school stability/best interest determination for the child even if their next placement is a residential setting.
- School districts need to carefully review documents, and obtain legal counsel as necessary before assigning a surrogate parent for those youth placed in a residential or treatment facility, group home, juvenile justice facilities, or institution.

Practices for Ensuring Quality and Appropriate Special Education Services for Youth in Foster Care

- Help expedite enrollment and special education services when a school change is necessary. know what documents are required (and what documents are not required) for enrollment and what the rules and deadlines are in your state or school district.
- Try and locate the new student's special education director and let them know the child is coming before they move. Plan ahead!
- Make sure the child has a legally authorized special education decision maker and that this individual is paying attention to the ongoing needs of the student, and timelines for evaluations and IEP implementation.
- Advocate that the child remain in the same school even if their living arrangement changes when it's in the best interest of the child.
- Children in care who are in residential settings, especially those who do not have active IDEA parents, are often overlooked by districts. Stay informed to make sure this does not happen.

- Invite the child's caseworker and GAL to participate in the IEP as a person who has "knowledge or special expertise regarding the child." 34 C.F.R. 300.321(a)(5). Note: If the school invites the child's caseworker to the IEP team meeting, it must obtain the parent's consent to discuss or reveal personally identifiable information reported in confidence at the IEP meeting.
- Help with effective, coordinated transition planning. The earlier effective transition planning and services start the better for the youth.
- Don't forget to consult with the child regarding desires and wishes, what has worked in the past and what hasn't.
- Request a copy of the child's most recent psychological evaluation from the child welfare worker to assist in or alleviate the need for further testing.
- Coordinate with child welfare workers about any recommendations that are identified through school and private evaluations.

School Discipline Practices and Procedures and Their Creation of Education Barriers for Youth in Foster Care

- Youth in foster care are disproportionately suspended, expelled and placed in separate disciplinary school programs. A 2005 study found that 67% of children in foster care had been suspended at least once, compared to 20% in a national sample. (National Working Group on Foster Care and Education, Educational Outcomes for Youth in Foster Care, 2007.)
- A history of abuse or neglect and removal from the home can traumatize children and negatively affect their school behavior.
- 17-18 year old foster youth are 2x more likely than their non-foster peers to receive an out-of-school suspension, and 3x more likely to be expelled from all public schools. (Courtney, 2004.)

Understanding the Negative Impact School Discipline has on Permanency for Foster Youth

Disciplinary actions taken against youth in foster care can have far more significant consequences than school administrators realize or intend.

- Permanency is often undermined by what happens at school. Out of school suspensions/expulsions, repeated school requested early pick ups, and mandated reductions of school days have a serious impact on the foster youth's permanency stability.
- Students who experience school discipline, have unmet behavioral health needs, are placed in alternative education or part-time school settings or have unmet special education needs are especially at risk for placement disruptions.
- Young people in foster care are more likely to drop out and less likely to graduate from high school if they experience repeated changes in their foster care living arrangements.
- One study showed that as the child's schools disciplinary record increased, their GPA went down and their length of time in care increased.
- *Minnesota Permanency Demonstration Project*: Children who achieved permanency were less likely to have been suspended from school. It also showed that as the child's school disciplinary infractions increased, their length of time in care increased.
- School discipline problems lead to longer stays in foster care, more disruptions in living placements, and more involvement with the juvenile judicial system.
- With each living placement change, the odds of finding permanency declines for 25%.

New Federal Guidance from Departments of Justice and Education on School Climate and School Discipline

- Guidance urges schools to:
 1. Use exclusionary discipline *only as a last resort*. If students are removed from class, they should receive “meaningful instruction, and their return to the classroom should be prioritized.” Guidance, Principle 2, 14-16.
 2. Reduce the number of suspensions, expulsions, and arrests by *providing targeted* supports and interventions with a proven track record of success (like restorative practices and Positive Behavioral Interventions and Support.) Guidance, Principle 1, 5-6.
 3. Provide students with enhanced/increased access to counselors, school psychologists, and school nurses. Guidance, Principle 1, 6-8.
 4. *Establish clear parameters for school and local police*; they should not be involved in “routine” school discipline matters, Guidance, Principle 1, 8-10.
 5. Collect and maintain *disaggregated data* on school discipline and report it publicly. Guidance, Principal 1, 11: Principle 3, 17-18.

Trauma-Informed School Discipline Practices

- Understand that as a result of past trauma, students in foster care are more likely to engage in disruptive behavior in school and need special understanding and support.
- Recommend that your district implement evidence-based prevention strategies, social and emotional learning opportunities, and regular training for all school personnel on how to engage foster students in positive behavior.
- Refrain from using “zero-tolerance” policies that “prevent the flexibility necessary to choose appropriate and proportional consequences.”
- Research shows that addressing the needs of traumatized youth can have positive consequences for all students in a school. (*Examining the Effects of School-wide Positive Behavioral Interventions and Supports on Student Outcomes Results*, 12 *J. Positive Behavior Interventions* 3, 122-48 (2010).)

Understanding Trauma

- In addressing behavioral problems with students in foster care, schools need to understand the impact of trauma on the lives of many of the youth in care.
- Research suggests that between half and two-thirds of all children are exposed to one or more adverse childhood experience that has the high potential to be trauma-inducing.
- Students in foster care experience trauma on a disproportionate basis.
- Several evidence-supported and evidence-based approaches to address trauma have been developed and have proven to be effective in curbing behaviors at school.
- Trauma-informed systems (approaches that shape organizations to be more trauma-sensitive).
- Trauma-specific treatment interventions (implemented at the individual-level to address trauma and its symptoms).
- If a foster youth student is disengaged or disruptive, consider the significant stress he or she is facing, and actively assist the child find needed help.

Special Needs of Foster Youth in Residential Placements

- Underlying policy goals suggest that attendance in the local public school is preferable to an alternative school setting and that positive disciplinary approaches described in the Guidance should apply in alternative settings as well.
- The Guidance asserts that:
 1. Removal should be the last resort because there may be more effective alternatives, collateral costs are high and removal is delegitimized as punishment if used too widely. Guidance, Principle 2, Action Step 5.
 2. Academic instruction in alternative settings should be “meaningful.” Such instruction should be “comparable...to that provided to students in the regular school program” and should follow appropriate procedures for youth with disabilities. Guidance, Principle 2, Action Step 5 at 15.
 3. Transition back to the regular classroom should be a “high priority” To facilitate that return schools should “strive to provide individually tailored intensive services and supports for students entering the classroom from alternative school placements or the juvenile justice system.” *Id.*
- Foster Youth are best served when they remain in the LRE rather than being removed or transitioned out to treatment facility’s on-ground schools as a school discipline salutation or in response to behavior issues related to disabilities or trauma.
- “To facilitate return from alternative placements and the juvenile justice systems, schools should strive to provide individually tailed intensive services and supports.” Guidance, Principle 2, Action Step 5, at 16.
- School districts should ensure that on-grounds schools at juveniles justice settings and residential placements are following Federal Laws and the Guidance.

Practices for Preventing School Discipline and Keeping Foster Youth in School

- Increased collaboration between child welfare workers and schools can help teachers learn to identify the respond to signs of trauma and look out for triggers, and can help child welfare workers, foster parents, and biological parents support learning and skill development through medical reviews, therapy, and private tutoring.
- Report disruptive school behaviors to judges, GALs or case workers so they may be addressed in court as opposed to moving forward with out-of-school discipline for probationary period.
- Make referrals to school-based mental health professionals in order to identify student's needs and provide mental health supports based on those needs. They also help teachers deepen their understanding of student's developmental and emotional needs and develop effective responses to behavioral issues.
- Invite counselors, therapists and psychologists to Behavior Intervention Plan meetings, METs and IEPs.
- Thoroughly consider if the student's infraction was a manifestation of their disability. It doesn't have to directly connected to their certification, can be connected to additional mental health diagnosis listed in their IEP.
- Have extra clothing available for students who violate school dress code.

- Only use suspension and expulsion as a last resort and for serious infractions. Equipped staff with alternative strategies to address behavior problems while keeping student in the classroom, and utilizing cool down rooms, learning centers, and access to school personnel who have positive relationship with the student.
- Refrain from calling the foster parent to pick up student early unless absolutely necessary. Provide quiet, isolated office so student can calm down. Speak in low voices. Do not physically touch the student, engage in argumentative debates, use dismissive body language or attempt to physically compensate personal items.
- Utilize the expertise of trained school-based support personnel-which may include school counselors, school psychologists, behavior interventionists, school social workers, mental health providers and school nurse in an effort to help identify student needs and provide school-based emotional and mental health support for struggling and vulnerable students.
- Frequently communicate about upcoming stressful situations that could trigger behavior such as: termination hearings for biological parents, testimony in sexual abuse hearing, sibling visits, reunification with biological family or a 30 day removal notification submitted by a foster parent.
- Administer medications and deliver child welfare related information in a private office.

- School Resource Officers or police within school should be trained on child and adolescent development, age-appropriate responses, disability concerns, and conflict resolution and de-escalation techniques. This is especially beneficial for foster youth who have had a disproportionately high rate of referrals to the juvenile justice system, or a general mistrust of state authority due to the removal of their home and continued separation from their biological parents and/or siblings.
- Do not take talking back too personally, abusive house-holds, poor adult role models, exposure to substance abuse and lack of structure most likely have formed behaviors that are the “norm” to the student. Use relationship building, mutual respect and trust to correct behaviors and teach student why they are not appropriate.
- Connect youth with a supportive adult within the school who can be contacted to de-escalate behavior episodes and serve as a “check-in” person.
- Data sharing is an effective way to monitor the consequences of school discipline across systems and for court involved populations. Collect and publish data on youth in foster care to create effective discipline prevention strategies that are evidence-based and data driven.

Eliminating High School Completion and College Preparation Barriers for Youth in Foster Care

- Researchers have found that of 50% of youth in foster care graduate high school, 10% of these students will enroll in a higher education program and only 2% will successfully attain their bachelor's degree.
- When foster youth do graduate from high school, they often graduate later than expected and tend to experience high levels of grade retention. They are more likely to be older for their grade and to be under credited compared to their peers who have not been involved with the child welfare system.
- Youth who stay in foster care after the age of 18 and have a diploma or GED are 3 times as likely as those no longer in care to attend college.

Practice Assisting Foster Youth Achieve High School Graduation Middle School Guidance Counselors

- Provide attendance, progress, discipline and grade log in information to case worker, foster parent and education advocate.
- Let foster youth know that attending college is possible and that they are eligible for many financial opportunities through state and federal programs to support students who are or have been in foster care.
- Encourage after school programs and community opportunities. Introduce foster youth to coaches and school leaders. Apply for available scholarships for after school lessons, recreational programs and summer camps.
- Monitor attendance to ensure that student is attending classes regularly (inform the student you are monitoring, extra “eyes and ears.”)
- Monitor grades to ensure that the student is developing good study habits and enroll in after school tutoring programs.
- Assist student in identifying subjects that they excel at or are interested in.
- Ensure that 8th grade students understand how high school differs than middle school in respect to credits.
- Enroll student in a foreign language course in order to prepare for high school language requirement.
- Research different high school program options and assist in applying for school of choice, boundary waivers, specialized programs ect.
- Identify future high school counselor before the end of 8th grade year, if possible schedule a meeting for the youth to meet them and discuss course enrollments a week prior to 9th grade starting.
- Let the child welfare worker know of any upcoming school events that require planning or costs.

Practice Assisting Foster Youth Achieve High School Graduation High and Enrollment in Post-Secondary Programs

High School Guidance Counselors

- Many youth in foster care have no idea that they can attend college. Some have said that the thought never crossed their mind until a teacher, judge or other adult in their lives suggested it. They may not even know how to start the process. Make an effort to meet the student early in their 9th grade year and encourage post-secondary education options.
- School counselors should seek out foster care students and hold meetings at the beginning, middle and end of a semester/trimester to review course selection, credits and assist with internship and college applications.
- Review previous transcripts with foster care student to ensure that you have received records for all previous schools attended.
- Educate foster youth about state wide programs that prepare foster students for attending post-secondary education programs including summer camps, workshops, standardized test prep and specialized university support systems for CPS/DHS involved youth.
- Connect foster youth with after school tutoring services and coordinate with transportation department if student will be staying after school.
- Complete credit audits each semester and provide audit to case worker and education advocate.
- Monitor class attendance.

- Assist with Dual-Enrollment Opportunities at Local Community Colleges.
- Provide case worker and educational advocate with log in information for programs that monitor progress, grades and attendance.
- Create fee waiver template for ACT/SAT and College Application Waivers.
- Communicate with education advocate, foster parent and case worker regarding student needs including computers, bus tokens, college recommendations, scholarships, and financial aid deadlines.
- Guidance counselors should research scholarships, financial aid and college support programs for foster youth. Counselors should provide extra support for foster youth in submitting applications, touring schools, pursuing financial aid, and setting up housing and other supports for college.
- Sign student up for summer school credit recovery programs if necessary.
- Enroll foster youth in required core curriculum classes.
- Connect youth with older student to provide guidance and act as a role model.
- Discuss with foster youth strategies for organizing and completing large projects, research papers, and assignments that are completed over a long period of time.
- Assist foster parent and foster youth with setting up a professional e-mail account for teacher correspondence, and college applications.
- Assist with creating a updated resume or CV and/or connection student to in-school writing center/lab.
- Communicate to child welfare agency costs and ordering process/timelines for graduation ceremony announcements, open-house invitations, cap and gown, senior pictures and year book.

Practice Assisting Foster Youth Build Attachment to School Peers and Community

School Social Workers & Teachers

- Ensure that the student has all necessary school supplies.
- Designate peers as a “buddy system” or as a welcoming committee (without disclosing the child’s foster care status.)
- Show student where your office is and designate a time each day where they can stop and “check-in.”
- Assist your school’s homeless liaison in identifying students in foster care.
- Provide new students with a tour of the school, walk them through their daily routine, and show them their locker.
- Make sure the office excuses absences due to court appearances and child welfare appointments.
- Connect the student to after school activities, extra-curriculars, summer camps, foster care support groups, tutoring and athletics.
- Make sure your school does not discriminate against children in foster care by preventing them from taking home text books, participating in academics and extra-curricular activities available to all other youth (even if the student enrolls midterm.)
- Communicate with foster parent, GAL and child care worker any observed deficits in weather appropriate clothing.

- Be discreet about the student's involvement in the child welfare system. Consult with the youth before disclosing his or her status.
- Identify and communicate with the child's regular and/or special education decision maker, this may be a biological parent, foster parent or other supportive adult.
- Encourage therapy, wrap-around service meetings and GAL visits take place during school hours at the school to prevent missing school of various appointments.
- Ensure that the student is signed up and receiving free lunch.
- Communicate to child welfare agency costs and ordering process/timelines for graduation ceremony announcements, open-house invitations, cap and gown, senior pictures and year book.
- Urge administrators to provide ongoing sensitivity training to school staff.

Thank you for your participation in this webinar. Please feel free to contact me with comments, links to resources or additional questions.

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