

# Foster Care & Education

Q&A

## HOW CAN COURTROOM RESOURCES SUPPORT JUDGES TO ADDRESS THE EDUCATION NEEDS OF CHILDREN IN CARE?

### Q: Why do the educational needs of children in foster care need special attention?

A: Studies demonstrate that students in foster care experience: high rates of school mobility when they enter care and when they change living placements, delays in enrollment when school changes occur, school suspensions and expulsions at higher rates than their peers not in foster care, lower standardized test scores in reading and math, high levels of grade retention and drop-out, and far lower high school and college graduation rates.

Research has shown that abuse and violence can have a negative impact on children's cognitive development and ability to learn. Many children experience a lack of school stability, with enrollment delays and the loss of earned credits when they change schools. Students in care are disproportionately placed in restrictive school programs or residential settings. Despite their disproportionate need for special help, including special education, these students are often unidentified or underserved. These problems are compounded by frequent confusion over who has educational decision-making authority or the lack of any legally authorized decisionmaker or advocate.

### Q: Why do judges need to help?

A: Judges are required to address the child's safety, permanency, and well-being needs – which of course include education. A specific focus on education is now also mandated by federal (and increasingly state) law. To see a chart detailing the federal and state laws that address school stability for children in foster care, please see

[http://www.fostercareandeducation.org/Database.aspx?EntryId=1861&Command=Core\\_Download&method=inline](http://www.fostercareandeducation.org/Database.aspx?EntryId=1861&Command=Core_Download&method=inline). These laws require child welfare agencies, and in some cases school districts, to ensure that children in care attend school, that they remain in the same school when their living placement changes unless this is not in their best interest, and that they are enrolled in school promptly with all of their school records when a change in schools occurs.

In addition, if children in care are receiving special education services, they must have parents to represent them or alternatively, competent and legally authorized education decisionmakers who are not employed by agencies that are involved with the education or care of the child.

Judges are needed to oversee all of these legal requirements and to ensure that agencies and parties before the court are complying with the law.

### Q: How are judges well-positioned to help?

A: Because of the multiple systems involved, judges are often essential to ensure that each system meets its responsibilities. Without clear direction from the courts, caseworkers and child service providers may not prioritize education issues. They also lack the court's authority to appoint an education decisionmaker or authorize a person to consent to a special education evaluation. Judges can order a party before the court to arrange and/or pay for transportation when needed for the child to remain in the same school or make sure that the agency is making school selection decisions in the child's best interest.

### Q: How can court rules, other standardized policies, or tools help improve

## children's educational outcomes? Which jurisdictions have good models?

A: Children's educational needs need to be reviewed, systematically and for each child, when: the child enters care; at each stage of judicial proceedings; and whenever a placement change is proposed. A number of states, including California, Colorado, New York, Oregon, and Pennsylvania have adopted judicial rules or statutes that require judges to make education inquiries, findings, and orders.

For example, Judicial Rules in Pennsylvania adopted in 2011 require juvenile courts to consider, make findings, and issue appropriate orders around education at each stage of the judicial process – from the initial shelter hearing to the permanency hearing. They consider various issues: a child's educational program and progress, whether school changes are being minimized, and whether the child has an authorized educational decisionmaker.

## Q: What judicial tools or checklists are available?

A: In 2008, the National Council of Juvenile and Family Court Judges (NCJFCJ) released an updated version of a judicial checklist of education issues. [http://www.fostercareandeducation.org/Database.aspx?EntryId=1889&Command=Core\\_Download&method=inline](http://www.fostercareandeducation.org/Database.aspx?EntryId=1889&Command=Core_Download&method=inline). Jurisdictions in many states, including Arizona, Iowa, New Jersey, Ohio, Oregon, Texas, and Utah, as well as Washington, DC, are using protocols and checklists to systematize their courts' review process. For examples of checklists, see <http://www.fostercareandeducation.org/Database.aspx?search=att11>.

The Legal Center for Foster Care and Education has worked collaboratively with Hamilton County Juvenile Court and the Legal Aid Society of Southwest Ohio to enhance how education issues are being addressed in Cincinnati, Ohio. Through a project known as "Kids in School Rule!," Hamilton County Jobs and Family Services has committed two education specialists to help support the education needs of children in Cincinnati Public Schools. Through their efforts, an "Education Court Report" form was developed as a supplement to the court report submitted by the student's case worker. This Education Court Report provides detailed information about a child's education needs, performance, and participation in school.

Furthermore, the data gathered from these reports will be collected to evaluate progress over time.

The Legal Center for Foster Care and Education has adapted this tool and created a template for other jurisdictions available here

[http://www.fostercareandeducation.org/Database.aspx?EntryId=1888&Command=Core\\_Download&method=inline](http://www.fostercareandeducation.org/Database.aspx?EntryId=1888&Command=Core_Download&method=inline).

Finally, the Legal Center for Foster Care and Education has developed a short **School Stability Best Interest Checklist** to support jurisdictions in making the "best interest" determinations as required by the education components of the Fostering Connections Act. This checklist will help child welfare staff respond to courts' inquiries regarding how school stability decisions have been made for specific children. See

[http://www.fostercareandeducation.org/Database.aspx?EntryId=1617&Command=Core\\_Download&method=inline](http://www.fostercareandeducation.org/Database.aspx?EntryId=1617&Command=Core_Download&method=inline).

## Q: How can courts track education outcomes of children to ensure systems are responding appropriately?

A: In addition to increasing attention to education within the courtroom, judges can also play an important role in elevating education success for children in foster care at a systemic level. To guide courts in identifying education measures to track through court automated systems, the National Center for State Courts worked collaboratively with organizations and experts from around the country to develop specific measures for education, detailed in **Educational Well-Being: Court Outcome Measures for Children in Foster Care** available at

[http://www.fostercareandeducation.org/Database.aspx?EntryId=1819&Command=Core\\_Download&method=inline](http://www.fostercareandeducation.org/Database.aspx?EntryId=1819&Command=Core_Download&method=inline).

## Q: Where can I find out more about this topic?

A: The Legal Center for Foster Care and Education provides training and technical assistance and has a number of tools and resources available. Please visit our website to access the **Q&A Factsheet: Courtroom Education Advocacy**, available at

[http://www.fostercareandeducation.org/Database.aspx?EntryId=1489&Command=Core\\_Download&method=inline](http://www.fostercareandeducation.org/Database.aspx?EntryId=1489&Command=Core_Download&method=inline).

Contact us at [ccleducation@americanbar.org](mailto:ccleducation@americanbar.org) with questions or to share examples of what is happening in your jurisdiction on this topic.



## LEGAL CENTER FOR FOSTER CARE & EDUCATION

### Publications and Resources

The Legal Center is constantly developing materials and resources on relevant issues around foster care and education. A sampling of our available publications includes:

#### ***Blueprint for Change: Education Success for Children in Foster Care***

The cornerstone publication of the Legal Center, the Blueprint for Change is a tool for change. The 8 goals and 56 corresponding benchmarks are a framework or checklist for both direct case advocacy and system reform efforts.

#### **Blueprint Goals**

- **Goal 1 - Youth Are Entitled to Remain in Their Same School If In Their Best Interest**
- **Goal 2 Youth Have Seamless Transitions Between Schools**
- **Goal 3 - Young Children Enter School Ready to Learn**
- **Goal 4 - Youth Have e Support to Fully Participate in School**
- **Goal 5 - Youth Have Support to Prevent School Dropout, Truancy, and Disciplinary Actions**
- **Goal 6 - Youth Are Involved and Empowered**
- **Goal 7 - Youth Have Education Advocates and Decisionmakers**
- **Goal 8 Youth Have Support to Enter Into and Complete Postsecondary**

The Blueprint for Change also includes hundreds of national, state, and local examples of policies, practices, programs, and resources. Use the Blueprint for Change framework to identify a jurisdiction's strengths and areas needing. To access the Blueprint for Change as well as a searchable database, visit:

[www.ambar.org/LegalCenterBLUEPRINT](http://www.ambar.org/LegalCenterBLUEPRINT).

#### ***Fostering Connections Implementation Toolkit***

Since the passage of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections), the Legal Center has been providing training and technical assistance at the federal and state level. The Fostering Connections Implementation Toolkit not only details the education provisions of the law, but also outlines state examples and practical strategies to best serve the needs of youth in each jurisdiction. Examples of tools included in the Fostering Connections Implementation Toolkit include:

- Short Question and Answer Factsheet
- Step-by-Step Implementation Checklists
- Detailed Issue Briefs on All Requirements With State Examples
- Factsheet About Overlap with McKinney-Vento
- Appendix of Statutory Language, Administrative Guidance, and Additional Tools and Resources

Use this publication to understand the education provisions of the law, learn practical strategies from other jurisdictions, and develop plans to effectively implement the law. To access the Fostering Connections Implementation Toolkit, visit: [www.ambar.org/LegalCenterTOOLKIT](http://www.ambar.org/LegalCenterTOOLKIT).

## ***Solving the Data Puzzle: A How-To Guide on Collecting and Sharing Information to Improve Educational Outcomes for Children in Out-of-Home Care***

The Legal Center has expertise in data collection and information-sharing and has developed a number of publications, including this comprehensive manual and accompanying tools. Use this publication to identify what your jurisdiction's information-sharing goals are and understand what mechanisms that must be in place to allow for information-sharing to occur, including addressing federal and state confidentiality laws. To access *Solving the Data Puzzle*, as well as other publications to support data collection and information-sharing, visit:

[www.ambar.org/LegalCenterDATA](http://www.ambar.org/LegalCenterDATA).

## ***Questions & Answer Factsheets***

The Legal Center develops two page Q&A Factsheets on the full spectrum of issues related to foster care and education. Examples of Q&A Factsheets include:

- The Link Between Education and Permanency
- Mobility and Special Education
- Head Start and Early Head Start
- Tuition Waivers for Postsecondary Education
- Credit Transfers and School Completion
- Surrogate Parent Programs
- Education of Older Youth and Coordinated Transition Planning

## ***Special Education Decisionmaking Series***

Who can make special education decisions for a child in foster care is a complex and state-specific issue. The Legal Center has developed an entire series on special education decisionmaking for children in foster care, including factsheets and articles. To access the Special Education Decisionmaking Series, visit:

[www.ambar.org/LegalCenterMATERIALS](http://www.ambar.org/LegalCenterMATERIALS).

## ***Courtroom Education Advocacy***

The Legal Center has developed a Courtroom Education Advocacy Series to support the needs of attorneys, advocates, and judges in improving education outcomes for children in foster care. This series includes:

- Judicial Checklist Around Fostering Connections
- Half- or Full-Day Courtroom Education Advocacy Training Curriculum
- Q & A Factsheet: Courtroom Education Advocacy
- Compilation of Education and Child Welfare Laws and Regulations Around Foster Care and Education

## ***McKinney-Vento Overlap Series***

The McKinney-Vento Homeless Assistance Act, a federal education law, has long been supporting the importance of education stability and serving many children in foster care. The Fostering Connections Act, a federal child welfare law, now supports education stability for all children in foster care. Each law affords youth different rights and responsibilities. The Legal Center has developed a series about the overlap of these two important laws, available at:

[www.ambar.org/LegalCenterMATERIALS](http://www.ambar.org/LegalCenterMATERIALS).

## ***State Technical Assistance Publications***

The Legal Center develops, in collaboration with state partners, tools to support training and technical assistance around education and foster care. A sampling of tools adaptable to states includes:

- Screening Tools for Child Welfare and Education Agencies
- Step-by-Step Guides for Educators
- Juvenile Court Rules
- Trainings for Judges, Advocates, Child Welfare and Educators
- Data-Sharing Agreements
- Interagency Memoranda of Understanding