



EDUCATIONAL STABILITY OF FOSTER CHILDREN

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SPECIAL EDUCATION + DISPUTE RESOLUTION + PROFESSIONAL DEVELOPMENT

An organization dedicated to improving the educational outcomes for vulnerable students.
Students with disabilities.
Students in foster care.
Students in correctional settings.

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Why we do what we do... and why we keep doing it.



Fostering Connections Act



Practical Tips for Attorneys, Advocates, and Child Welfare Staff



Making Connections: IDEA, Section 504, and Foster Children



Next steps on the journey.

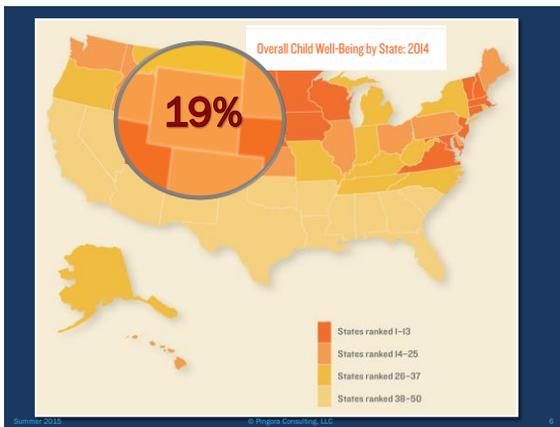
25TH EDITION 2014 DATA BOOK state trends in child well-being
THE ANNIE E. CASEY FOUNDATION

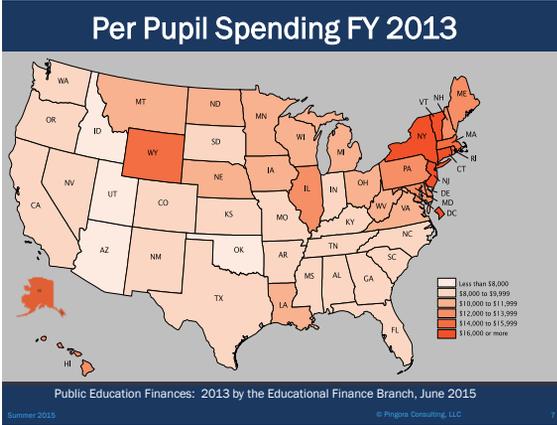
Why we do what we do.

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<p>Children in poverty. Parents lack secure employment. High housing costs. Teen not in school/not working.</p>	<p>ECONOMIC WELL-BEING</p>	<p>Children not attending preschool. 4th Graders not proficient/reading. 8th Graders not proficient/math. Students not graduating on time.</p>	<p>EDUCATION</p>
<p>Children in single parent families. Head of household lack H.S. diploma. Children living in high poverty. Teen births.</p>	<p>FAMILY AND COMMUNITY</p>	<p>Low birth weight. Children w/o health insurance. Child & teen deaths. Teens with substance abuse.</p>	<p>HEALTH</p>

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EDUCATORS ON THE FRONT LINES

- The three most common child abuse/neglect report sources:
 1. Teachers (16.5%)
 2. Law enforcement and legal personnel (16.4%)
 3. Social service staff (11.4%)

U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2010). Child Maltreatment 2009.

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WHERE ARE WYOMING CHILDREN?

- Data show wide variations among states — and even within states — in the percentage of children living in family versus non-family placements and in the time children spend outside of families.
- In Oregon, Kansas, Maine and Washington, only 4 percent to 5 percent of young people in out-of-home care are in group placements, compared with **more than 25 percent** in West Virginia, Wyoming, Rhode Island and Colorado.

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WHAT CAN YOU DO TO HELP?

Knowledge is power. Know and understand the law. Be an advocate for educational stability.

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Who Is Responsible?

We are all responsible for ensuring the educational stability of foster children.

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- The federal legislation was passed in 2008, and was strengthened in 2011.
- The Act seeks to increase educational stability by minimizing educational disruptions.
- The Act mandates that educational stability be addressed in the case plan for every school age foster child.



The Fostering Connections to Success and Increasing Adoptions Act of 2008.

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THE PRESUMPTION & THE BURDEN

- Child welfare agencies are required to include in a case plan an assurance that the child's placement in foster care takes into account the appropriateness of the child's current educational setting and the proximity to the school the child was enrolled in at the time of placement; AND

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THE PRESUMPTION & THE BURDEN

- Child welfare agencies must coordinate with education agencies to help children stay in their original school when placed in foster care unless it is not in their best interests, AND
- If changing schools is in a child's best interests, the state must ensure his or her immediate enrollment in the new school and swift transfer of all records.

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The presumption is the starting point. The starting point is the SAME SCHOOL. Overcoming the presumption requires a determination that continuing in the same school is NOT IN THE BEST INTERESTS of the child.

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CHALLENGES



SOLUTIONS

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Fostering Connections Implementation Toolkit

Improving Education Outcomes for
Children and Youth in Foster Care



We offer our respectful
thanks to the Legal
Center for Foster Care &
Education for resources
used in the development
of this presentation.

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- Child welfare agencies are responsible for making individual placement decisions on a case-by-case basis.
- Agencies must balance the need for proximity to the family, the available foster care resources, and the appropriateness of the child's current educational setting.



CHILD WELFARE AGENCY CONSIDERATIONS

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EDUCATIONAL STABILITY DETERMINATIONS

- Examples of factors that influence child welfare agency school stability decisions include:
 - The child's preference to change schools or remain in the same school;
 - The safety of the child;
 - The appropriateness of educational programs in the current school; and
 - How each school is serving or can serve the child's needs, including special education and other interests.

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CRITERIA FOR THE DECISION

- **NOTE: The Cost of Transportation Should NOT Be a Best Interests Factor**
- The ACF Program Instruction specifically states that the decision-maker should not consider the cost of transportation when determining which school serves the child's best interests.

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*, (July 9, 2010), available at http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2010/pi1011.htm

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Questions to Consider When Making a School Selection

- How long is the child's current placement expected to last, and what is her permanency plan?
- How many schools has the child attended in recent years?
- How have moves affected her overall health, and how anxious is she about being in care and upcoming moves?
- How is the child doing in school and which school can best meet her needs?
- Which school does the student prefer?
- How strong are the child's ties to her current school?
- Would the transfer happen at a logical time—e.g., after testing, between sports seasons, or when school ends?
- How would changing schools affect the student's school credits, extra-curricular activities, and ability to advance a grade or graduate on time?
- How would the commute to the school of origin affect the child?
- What school do any siblings attend?
- Are there any safety concerns?

Legal Center for Foster Care and Education and the National Center for Homeless Education, *Best Practices in Homeless Education: School Selection for Students in Out-of-Home Care* (Fall 2009).

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Best Interests Worksheet & School Checklist

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CASE PLAN REQUIREMENT

- The educational stability plan must
 - Be a written part of the child's case plan;
 - Be jointly developed with the child's parents no later than 60 days after a child's removal from the home; and
 - Be reviewed every six months thereafter.
- If the agency determines it is not in the child's best interests to remain in the same school, **the rationale for this decision must be documented in the case plan.**

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WHEN CHANGING SCHOOLS. . .

- The law requires that if remaining in such school is **not in the best interest of the child**, the case plan must include assurances by the child welfare agency and the local educational agencies that:
 - Provide **immediate and appropriate enrollment** in a new school; and
 - Provide all of the educational records of the child to the school.

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Ask about:

- Educational stability at initial removal and all subsequent hearings.
- How to keep the child in his/her current school?
- Who will provide transportation if needed?
- Whether the case plan addresses educational stability.



DEPENDENCY ATTORNEY CONSIDERATIONS

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ATTORNEYS FOR CHILDREN

- Your client has a right to remain in his/her current school setting unless it is contrary to his/her best interests.
- Ask your client his/her preference, if appropriate.
- Advocate from the time of the initial hearing to increase educational stability.

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ATTORNEYS FOR CHILDREN

- Request that the court make specific findings on the record regarding the child's best interests with respect to educational stability.
- If a school change is necessary, determine new enrollment dates and responsible parties.
- Make educational stability a consideration at EVERY hearing.

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Children lose between 4 to 6 months of educational progress with each school change.

DO THE MATH!

Educating Children in Foster Care: The McKinney-Vento and No Child Left Behind Acts, Casey Family Programs, 11 (2007).

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ATTORNEYS FOR PARENTS

- Keeping children in their home school facilitates:
 - Nurturing relationships with children;
 - Increased visitation opportunities;
 - Parent involvement in school decisions and activities;
 - Opportunities for parents to demonstrate appropriate parenting skills; and
 - Reunification efforts.

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ATTORNEYS FOR PARENTS

- Advocate for parents retaining educational decision making.
- Nothing in the law requires a substitute decision maker.
- If remaining in the same school is NOT in the children's best interest, advocate for the parent's continued involvement in all educational decision.

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ATTORNEYS FOR PARENTS

- Request that the court make specific findings on the record regarding the child's best interests with respect to educational stability.
- If a school change is necessary, determine new enrollment dates and responsible parties.
- If a school change is necessary, advocate for a placement in the same school district.
- Make educational stability a consideration at EVERY hearing.

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Ask about:

- Educational stability at initial removal and all subsequent hearings.
- How to keep the child in his/her current school?
- Who will provide transportation if needed?
- Whether the case plan addresses educational stability.



CASA CONSIDERATIONS

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CASAs

- Consider developing an "Education Passport" to include all essential documents and information needed to support a foster student's education and/or transfer to a new school.
- What should be included in the Education Passport?



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- Is the court:
- Asking about educational stability at initial removal and all subsequent hearings?
 - Asking how to keep the child in his/her current school?
 - Asking who will provide transportation if needed?
 - Making a best interest determination on educational stability?



JUDICIAL CONSIDERATIONS

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JUDICIAL CONSIDERATIONS

- Is the court monitoring a child's ongoing school attendance and participation?
 - Courts should require child welfare agencies, and other appropriate parties to a case, to report on the child's ongoing school attendance and participation.
 - Courts should also consider working with the child welfare and education agencies to develop a system to share information to ensure and track school enrollment and attendance, as well as other critical data to evaluate student's stability, continuity and educational progress.

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JUDICIAL CONSIDERATIONS

- The court's specific authority over the education agency may vary by state or jurisdiction, and impact whether the court can order the education agency to comply.
 - Regardless of the court's authority over the schools, in *all* cases judges can grant motions by parties to the case to request that the education agency or local school district representative appear to respond to questions or provide information to the court.

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QUESTIONS TO ASK FROM THE BENCH

- Is the child enrolled in and regularly attending school?
 - If not, order a party to the case to immediately enroll the child.
- Is the school the child is attending appropriate to meet the child's education needs?
 - If not, appoint someone to immediately advocate for assessments or appropriate services for the child.
- When a change in living placement is occurring, has the proximity to the child's current school been considered when identifying the new living placement?
 - If not, order the agency to consider and document proximity to school.

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QUESTIONS TO ASK FROM THE BENCH

- When a change in living placement has occurred, did the child stay in the same school?
 - Was it determined to not be in his or her best interest to stay? If not, why not?
 - Are there efforts being made to either keep him or her in the same school or return him or her to that school?
 - What are the barriers to making that happen, if any?

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QUESTIONS TO ASK FROM THE BENCH

- Has transportation been arranged and provided?
 - If the child is placed outside of the school district's boundaries, is the child welfare agency taking ultimate responsibility to ensure needed transportation is provided (either alone or in collaboration with the education agency)?

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QUESTIONS TO ASK FROM THE BENCH

- If it is not in the child’s best interest to stay in the same school, why not and who made that determination?
 - Are all parties in agreement?
 - Was the youth’s perspective included in the decision?

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QUESTIONS TO ASK FROM THE BENCH

- Was the child immediately enrolled in new school, if not in his/her best interest to stay?
 - Have his/her records been transferred? How quickly were the records transferred?
 - If not enrolled immediately or records not transferred, order an individual to take immediate action.
 - Who has spoken to the school about the trauma that the child may be experiencing by separation from his/her family?

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QUESTIONS TO ASK FROM THE BENCH

- Has the parent consented to the release of the child’s education records to the child welfare agency and other advocates in the case?
 - Does the court need to issue an order to allow the school to release these records to any necessary individuals including the child’s attorney or GAL and the child welfare agency?

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QUESTIONS TO ASK FROM THE BENCH

- Is there a specific individual identified who will take the lead to ensure school stability and all necessary education services and supports (including ensuring credit calculations and graduation requirements are addressed), or does someone need to be identified?
- Who is the child's education decision maker for general and/or special education?

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Inquire:

- Is there any plan for coordination with schools in the county?
- Are there any barriers to immediate enrollment of foster students?
- Are there any barriers to credit transfer?
- Who is the school's contact person for foster children?



SCHOOL CONSIDERATIONS

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UNINTERRUPTED SCHOLARS ACT

- Important amendments to the Family Education Rights and Privacy Act (FERPA):
 1. Schools are permitted to disclose a student's education records without parental consent to a caseworker or other representative of a child welfare agency "when such agency is legally responsible . . . for the care and protection of the student."
 2. Schools are permitted to disclose a student's education records pursuant to judicial order without requiring additional notice to the parent.

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MCKINNEY-VENTO ACT

- The Act eliminates records-related barriers to school enrollment and participation.
- Children waiting foster placements can enroll in school and begin participating fully in all school activities immediately, even if they cannot produce normally required documents, such as birth certificates, proof of guardianship, school records, immunization records, or proof of residency.

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Patricia Juhannelle, JD
 National Association for the Education of Homeless Children and Youth
Made possible with support from Casey Family Programs

When the child welfare system provides
 a safe, healthy, stable home environment
 +
 the school system provides a nurturing,
 quality, stable school environment
 =
 there is real opportunity for a
 youth's educational success.

The McKinney-Vento Act and
 Children and Youth Awaiting
 Foster Care Placement

*Strategies for Improving Educational Outcomes
 Through School Stability*

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.. make me a bird so I can fly far, far away.

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Unrelenting Focus

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“How you speak to your children becomes their *inner* voice....”
Anonymous

Thank you!

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