



GOAL 1 School Stability

Judges' Roles

Blueprint Tools

Youth Are Entitled to Remain in Their Same School When Feasible

Youth in foster care move between living placements an average of once to twice a year, and must often change schools. Research shows that school moves can lead to academic problems, grade retention and increased drop-out rates. Research also shows that school stability can promote educational success for youth in care.¹

What you can do:

- ✓ **Ensure that education stability is considered at all court hearings.** Whenever possible and in the child's best interest, keep a child in his home or neighborhood to prevent educational disruption. Title IV-E requires child welfare agencies to consider the appropriateness and proximity of a child's school when identifying where a child should live.² At all hearings to review a child welfare agency's plan to change placement, remind the agency of its responsibility to consider education stability as a factor. When the court itself approves specific living placement decisions, consider the child's access to her original school.
- ✓ **Help youth remain in their original school even when they move to a home in a different school district.** Some state laws provide specific school stability rights for children in out-of-home care.³ Title IV-E now requires child welfare agencies to coordinate with schools to ensure that a child remain in her original school when in her best interest to do so. The federal McKinney-Vento Act gives youth "awaiting foster care placement" the right to remain in their school of origin when they move to a new living placement when "feasible." "School of origin" is defined as the school the youth attended when "permanently housed" or in which the youth "was last enrolled."⁴ The definition of "awaiting foster care placement" varies widely from state to state, but can be as broad as all youth in the substitute care system.⁵ Judges can play a vital role in four ways:
 - **Make sure that youth and their caretakers understand the rules.** At adjudication and/or disposition hearings, ensure that stakeholders—including youth, parents, lawyers, and caseworkers—are aware of school stability rights.
 - **Make sure there is a clear education decision maker to make school selection decisions for the child.** (See *Goal 2: Seamless*

Promote policies that support education stability.

The Blueprint for Change: Educational Success for Children in Out-of-Home Care provides a more detailed guide on the benchmarks for meeting the educational needs of youth in care, as well as national state and local examples of how various jurisdictions are meeting these needs. Use the Blueprint as a guide to assessing your jurisdiction's policies. Contact the Legal Center for support promoting educational success for youth in your jurisdiction.
E-mail: ccleducation@abanet.org

Resources:

- ✓ **Judicial checklists on education:** *NCJFCJ Judicial Checklist; In School, the Right School, Finish School; A Guide to Improving Educational Opportunities for Court-Involved Youth.*
- ✓ **Legal analysis, including information on appointing education decision makers:** *Mythbusting: Breaking Down Confidentiality and Decision-Making Barriers to Meet the Education Needs of Children in Foster Care*
- ✓ **Article on school stability for youth in out-of-home care:** *The McKinney-Vento Act and Children and Youth Awaiting Foster Care Placement: Improving Educational Outcomes through School Stability*—includes state definitions of “awaiting foster care placement.”
- ✓ **Overviews on state school stability laws:** *Lessons Learned and the School Stability Legislation Chart* provide overviews of state law on school stability.
- ✓ **Information for school selection best interest determinations:** National Center for Homeless Education’s *Best Practices for Homeless Education: Guiding the Discussion on School Selection*—includes factors to help determine which school is in a child’s best interest. It focuses on homeless children, but is useful for decisions about youth in out-of-home care.

Access these documents at:
www.abanet.org/child/education/home.shtml.

Transitions for more information about the court’s role in identifying an educational decision maker.)

- **Make sure there is an educational advocate to help the child with school selection and school stability.** (See *Goal 2: Seamless Transitions* for more information about the court’s role in appointing an educational advocate.)
- **If your state allows the court to make the school selection decision, gather information from all parties to help decide what is in the best interest of the child.** The child, parent, foster parent, caseworker, school staff, and lawyers may all have useful information on appropriate schools. Some factors to consider include:
 - child’s ties to the current school
 - effect of move on child’s academic performance
 - distance of the commute
 - personal safety of the student
 - which school can better serve the child’s educational needs, including special education
 - length of stay expected in this living placement (the shorter the stay, the more important it is to keep the child in the original school)⁶
- ✓ **Help youth get transportation to their original school—whether or not the youth is eligible for McKinney-Vento benefits.** Title IV-E now clearly permits states to use maintenance dollars to support school of origin transportation.⁷ Under the McKinney-Vento Act, youth “awaiting foster care placement” are entitled to transportation to their original school. Some states also set aside funds for transportation.⁸ If the transportation is not funded by a school district, require the child welfare agency to fund transportation or to work out an agreement with the school to address transportation needs.
- ✓ **If your jurisdiction allows, grant motions by parties to bring a representative from the local school system before the court.** Ask the representative questions about the child’s school placement and the efforts that were made to keep the child in their home school.

Endnotes

¹ National Working Group on Foster Care and Education. *Educational Outcomes for Youth in Foster and Out-of-Home Care*, September 2007. Find this resource online at: www.abanet.org/child/education/home.shtml

² 42 U.S.C. § 675(1).

³ See, e.g., Or. Rev. Stat. § 339.133; California A.B. 490.

⁴ Section 722(g).

⁵ See, e.g., 14 Del. Code Ann. § 202(c).

⁶ These school selection factors are loosely based on The National Council on Homeless Education checklist referenced in the resource box. For more information, read the complete publication.

⁷ 42 U.S.C. 675(2)(A).

⁸ Or. Rev. Stat. § 339.133.

This information is adapted from the **Blueprint for Change: Educational Success for Youth in the Child Welfare System**, published by the **Legal Center for Foster Care and Education**. To see the full publication, use a searchable database on foster care education laws, and access secondary sources and training materials, visit www.abanet.org/child/education/home.shtml.