



## GOAL 2 School Transitions Attorneys' Roles

### Blueprint Tools

#### Youth Are Guaranteed Seamless Transitions Between Schools and School Districts When School Moves Occur

When youth must change schools, transferring their records and enrolling them in new schools is often delayed. This disrupts their education and interferes with their educational success. Delays make it harder for youth to access academic and extracurricular programs.

#### What you can do:

- ✓ **Insist on immediate enrollment of the child.** Federal law under Title IV-E of the Social Security Act requires states to immediately and appropriately enroll youth in care in the new school when they move. Under the McKinney-Vento Act, youth “awaiting foster care placement” are entitled to enroll immediately in a new school even if they are missing required records (such as immunization records). They are also entitled to have a school liaison help them with enrollment and other issues. To figure out whether a child is covered by this law, find out how your state defines “awaiting foster care placement.” In some state, this law covers all or most youth in care. Additionally, in many states, schools must enroll children within a set time period, e.g., within five days of the request.
- ✓ **Clarify who can enroll the child.** State law will generally spell out who can enroll the child. In most cases, those permitted to enroll the child will include the natural or adoptive parent, the caseworker, and/or the foster parent. Raise this issue at all hearings requiring a school change, and follow up to be certain the child is enrolled.
- ✓ **Insist that your client’s records be transferred immediately.** Many states require the prompt transfer of records between schools. Determine what your state requires, and insist that the deadline be met. If your state does not have a timeline for record transfer, advocate for immediate transfer. Ensure the child welfare agency is doing its part to facilitate the record transfer, as Title IV-E now requires the child welfare agency to ensure the child’s education records are provided to the new school.
- ✓ **Advocate for proper credit transfers.** Some states require schools to grant credit or partial credit for coursework completed in prior schools. Some also ensure that youth who complete the work receive high

#### 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: [cceducation@abanet.org](mailto:cceducation@abanet.org)

## Resources:

- ✓ **Learn about new provisions of Title IV-E of the Social Security Act that focus on school stability.** Additional resources are available at the Legal Center Web site.
- ✓ **Learn about state legal entitlements** by reviewing *Lessons Learned* and the *State School Stability Legislation Chart*. Available at [www.abanet.org/child/education/home/shtml](http://www.abanet.org/child/education/home/shtml).
- ✓ **Identify how “awaiting foster care placement” is defined in your state/locality** by reviewing *The McKinney-Vento Act and Children and Youth Awaiting Foster Care Placement: Improving Educational Outcomes through School Stability*. Available at [www.abanet.org/child/education/home.shtml](http://www.abanet.org/child/education/home.shtml).
- ✓ **Review the legal analysis, including information on appointing education decision makers,** in *Mythbusting: Breaking Down Confidentiality and Decision-Making Barriers to Meet the Education Needs of Children in Foster Care*. Available at [www.abanet.org/child/education/mythbusting2.pdf](http://www.abanet.org/child/education/mythbusting2.pdf).

school diplomas even if they have changed schools frequently.<sup>1</sup>

Determine what your state law allows, and advocate for proper credit transfers. Even if your state does not have such a law, be proactive in advocating that your client receive credit for all completed work.

- ✓ **Ensure your client’s special education needs are being met.** If your client was eligible for or receiving special education in the original school, request that she receive appropriate services in the new school immediately upon arrival as required by the IDEA.
- ✓ **Consult with your client’s former and current teachers, guidance counselors, and resource providers.** Your client’s former teachers, guidance counselors, and resource providers (such as speech therapists, occupational therapists, and liaisons) can provide valuable insights into your client’s educational progress. They are also key to ensuring successful records and credit transfers. To ensure that this information reaches the new school, involve these individuals in the child’s school move.
- ✓ **Contact the foster care liaison in the school, if one exists.** Some schools have designated staff to assist with the unique needs of children in foster care. This contact person can help ensure your client’s transition to the new school goes smoothly, and can make sure records are transferred. If your school has a liaison, be sure he or she is aware of your client’s situation and is prepared to assist.
- ✓ **Know who the education decision maker is for your client. If there is no such individual, ask to have one appointed.** The default decision maker should always be the biological or adoptive parents; they have a constitutional right to make education-related decisions for their children.<sup>2</sup> When parents fail to act on behalf of their children, however, youth need alternate decision makers. If your client does not have an education decision maker, advocate for one to be appointed. For regular education decisions including record and credit transfers, use state laws to identify a potential decision maker. See *Special Education Decisionmaking: Role of the Attorney* fact sheet at [www.abanet.org/child/education/publications](http://www.abanet.org/child/education/publications) for an overview of the law on special education decision makers for youth in the special education system. Regardless of whether your client is in regular or special education, the education decision maker should be someone who knows and spends time with the child, understands the child’s educational needs, and will advocate for the child.

### Endnotes

<sup>1</sup> California A.B. 490; Maine Public Law Chapter 451.

<sup>2</sup> *Wisconsin v. Yoder*, 406 U.S. 205 (1972); *Pierce v. Society of Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510 (1925).

**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, go to [www.abanet.org/child/education/home.shtml](http://www.abanet.org/child/education/home.shtml).