



# GOAL 2 School Transitions

## Judges' Roles

### Blueprint Tools

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

When children must move from one school to another because of changes in their living placements, delays in obtaining records and enrolling youth often disrupt their education and interfere with their educational success.

#### What you can do:

- ✓ **In court orders, clarify who holds the educational decision-making rights for the child.** The default decision maker should always be the biological or adoptive parents, who have a constitutional right to make education-related decisions for their children.<sup>1</sup> However, when parents fail to act on behalf of their children (e.g., by not responding to attempts from the school to engage them in education decisions), youth need alternative decision makers. Use each court hearing to ensure that a decision maker is acting on behalf of the youth.
  - For an overview of the law on special education decision makers, see the *Special Education Decision Making: Role of the Judge* fact sheet at [www.abanet.org/child/education/publications](http://www.abanet.org/child/education/publications).
  - For regular education decisions including school stability, use state laws to identify and appoint a decision maker.<sup>2</sup>
  - For general and special education, the 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.
  
- ✓ **Ensure that each youth has an adult supporting his or her education.** The education decision maker may be the best person to serve as a role model and support for the child. There are times when another person may need to be identified to engage in other educational advocacy for the child—for example, to ensure the child is fully participating and engaged in the school experience, is receiving appropriate services, and is on track to move to the next grade or graduate. Question the youth and others at court hearings to determine whether someone in the child's life supports the child's education and future goals on a day-to-day basis. Foster parents, CASAs, teachers, guidance counselors, relatives, and family friends often serve this function. If the child suggests such a person, direct the caseworker to support the

#### 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:

**Defining “awaiting foster care placement”:** To identify how “awaiting foster care placement” is defined in your state or locality, review *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))

**New Title IV-E Provisions:** New provisions in Title IV-E of the Social Security Act support education stability and seamless transitions between schools for youth in care. Visit the Legal Center Web site for additional resources.

relationship (e.g., by finding out whether visitation would be appropriate, ensuring the child has regular telephone contact, etc.). If the child has no suggestions, instruct the caseworker to work with the child to make contact with a mentor.

- ✓ **Ensure that children are quickly enrolled when they change schools.** Clarify who is enrolling the child in school and ensure that the child is enrolled promptly. Many state laws set short time limits for enrolling new students and have liberal rules regarding who can enroll a youth. Title IV-E now requires child welfare agencies to ensure that a child is enrolled immediately and appropriately when he or she changes schools.<sup>3</sup> Under the federal McKinney-Vento Act, youth “awaiting foster care placement” are entitled to enroll immediately in a new school even if they are missing required records (e.g., immunization). They are also entitled to have a school liaison help them with enrollment and other issues. Hold parties accountable for ensuring the youth’s legal right to access education is met.
- ✓ **Ensure the child welfare agency and the new school have all necessary education records.** Judges can play a vital role by taking the following steps.
  - **Make sure the child’s case plan includes required education information.** Title IV-E requires that the child’s case plan include the child’s grade level performance, school record, immunizations, and any other relevant education information deemed appropriate by the state agency.<sup>4</sup> This should include information about a child’s IEP, standardized test scores, and grades. Ask questions at all court hearings to ensure that the case file includes necessary information about a child’s school records and there are not barriers to obtaining education records. If schools have interpreted the Family Education Rights and Privacy Act (FERPA)<sup>5</sup> to prevent child welfare advocates from obtaining needed education records, the court should determine the best way to overcome this barrier (i.e., the court could issue an order permitting the child welfare agency access to the records, a specific exception to requiring parental consent to release to a third party under FERPA).
  - **Make sure the child’s education records have been transferred promptly from the old school to the new school.** State law often establishes a short deadline for transferring records. If these deadlines are not being met, ensure that an adult, such as the caseworker, facilitates the record transfer. FERPA (discussed above) should never be interpreted as a barrier to a former school transferring records directly to a new school. If a caseworker or other advocate has the prior schools’ records (perhaps via a court order, discussed above), that individual can send records directly to the new school if necessary.

- ✓ **Facilitate proper credit transfers.** Some states require schools to grant credit or partial credit for previously completed coursework in other schools. Some also ensure that youth who complete their work receive high school diplomas even if they change schools frequently.<sup>6</sup> Ask at court hearings whether the child is having trouble with credit transfers or meeting graduation requirements. If necessary, ensure that an adult in the child’s life is involved in advocating for proper credit transfers.
- ✓ **Ensure a child’s special education needs are being met.** Under the IDEA, a child must receive evaluations and needed services, in the least restrictive environment, even when they change school districts. At court hearings, ask questions to determine whether the child has an existing IEP or might need an evaluation. Ensure an adult is advocating for the child to get appropriate services to support smooth school changes and transition planning required under IDEA. These efforts should begin no later than age 16. For more information see the Question and Answer factsheet: *Special Education and Mobility*.<sup>7</sup>
- ✓ **Use education liaisons in the court system.** Some courts have liaisons to link the court with the education system. This person can ensure the student’s transition to a new school goes smoothly, and help with record transfers to the new school. If your court has one, make sure the liaison is informed of cases in which the child needs help. Such liaisons exist in many county courts across the country, including California, Florida, Maryland, New York, and Arizona to name a few. If your court does not yet have a liaison, consider creating such a position.
- ✓ **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 efforts to make the child’s school transition as seamless as possible.

#### Endnotes

<sup>1</sup> *Pierce v. Society of Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510 (1925); *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

<sup>2</sup> In California, for example, the judge can limit a biological parent’s education rights and appoint a “responsible adult” to fill the role. California WIC § 361.

<sup>3</sup> 42 U.S.C. 675(1)(G)(ii)(II).

<sup>4</sup> 42 U.S.C. § 675(1)(C).

<sup>5</sup> This federal law outlines under what circumstances schools can share student education records.

<sup>6</sup> California A.B. 490; Maine Public Law Chapter 451.

<sup>7</sup> [www.abanet.org/child/education/Q%20%20A%236%20Mobility%20FINAL.pdf](http://www.abanet.org/child/education/Q%20%20A%236%20Mobility%20FINAL.pdf)

**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).