

Introduction

Effective January 1, 2004, Assembly Bill 490 (Steinberg) created new duties and rights related to the education of dependents and wards in foster care.

Guiding Principles

Everyone shares the duty to promote the educational progress of children in out of home placements.

Educators, school personnel, social workers, probation officers, caretakers, advocates, and juvenile court officers must work together to serve the educational needs of children in foster care.

Foster youth must have access to the same academic resources, services, and extra-curricular and enrichment activities available to all students. All educational decisions must be in their best interests. *EC §§ 48850(a), 48853(g); WIC §§ 361(a), 726(b).*

Educational matters must be considered at every court hearing. Social workers and probation officers have many education-related reporting requirements. *See CRC 5.651(c) for a detailed list of requirements.*

School Stability**Role of the Placing Agency**

When making an out-of-home placement, the placing agency must consider both the placement's proximity to the child's current school and the impact the placement will have on the child's educational stability. *WIC § 16501.1(c).*

Within 24 hours of determining that a proposed placement or placement change would result in a change of school, the social worker or probation officer must notify the court, child's attorney, and educational representative or surrogate parent. *CRC 5.651(e)(1)(A).*

If a child who is changing schools has an Individualized Education Program (IEP), the social worker or probation officer must give written notice of the impending change to the current local educational agency and the receiving Special Education Local Plan Area at least 10 days in advance. *CRC 5.651(e)(1)(B).*

Role of the Court

The child's attorney must discuss any proposed school change with the child and the child's educational rights-holder, as appropriate, and may request a hearing on the proposed change by filing form JV-539 within 2 court days of receiving notice. *CRC 5.651(e)(2)(A).*

The child's educational rights-holder may also file form JV-539 to request a hearing on a proposed school change. *CRC 5.651(e)(2)(B).*

If there is a hearing request, the social worker or probation officer must provide a report on the proposed change within 2 court days, and the hearing must be held within 7 calendar days. Pending the result of the hearing, the child has a right to remain in his or her current school. *CRC 5.651(e)(2)-(4).*

Role of the School District

If a child's residential placement changes, the school district must allow the child to remain in his/her "school of origin" (usually the child's current school) for the rest of the school year. The district's foster youth liaison may recommend that this right be waived after consulting with the child and his/her educational rights-holder and providing them with a written explanation. If a dispute arises, the child has the right to remain in the school of origin until the dispute is resolved. *EC § 48853.5(d).*

School District Liaison

Each school district and county office of education must designate an educational liaison for foster youth, whose duties are:

- To ensure proper educational placement, school enrollment, and checkout from school,
- To assist with the transfer of grades, credits, and records when there is a school change, and
- To request or provide school records within 2 business days when there is a change of school. *EC § 48853.5(b), (d)(4)(C).*

Local Public Schools Preferred

Foster children must attend programs operated by the local educational agency unless:

- The child remains in the school of origin,
- The child has an IEP requiring a different educational placement, or
- The child's educational rights-holder determines that it is in the child's best interest to attend a different educational program. *EC § 48853(a).*

Before any decision is made to place a child in a juvenile court school, community school, or other alternative educational setting, the child's educational rights-holder must first consider placement in the regular public school. *EC § 48853(b).*

Immediate Enrollment

If a child changes schools, he/she has the right to be enrolled in the new school immediately, even if there are outstanding fees, fines, textbooks, or other items or money due to a school or if the student

does not have the clothing or records normally required for enrollment. *EC § 48853.5(d)(4)(B).*

**Timely Transfer of Records
Placing Agency's Duties**

As soon as the social worker or probation officer becomes aware of the need to transfer a child to a new school, he/she must notify the school district of the child's last expected day of attendance and request that the child be transferred out. *EC § 49069.5(c).*

Social workers and probation officers may access the child's school records—without needing parental consent or a court order—to help with school transfer and enrollment, compile the child's health and education summary, and conduct educational case management. *EC § 49076(a)(11).*

New School District's Duty

Within 2 business days of receiving a request for enrollment, the foster youth liaison for the new school must contact the school last attended by the child to obtain all academic and other records. *EC § 48853.5(d)(4)(C).*

Old School District's Duties

Within 2 business days of receiving a transfer request, the current school district must transfer the child out and deliver the student's school records to the next school. The records must include a determination of seat time, full or partial credits earned, current classes and grades, immunization records, and, if applicable, special education or Section 504 records. *EC § 49069.5(d)-(e).*

All records must be provided to the new school regardless of any outstanding fees, fines, textbooks, or other items or money owed to the school last attended. *EC § 48853.5(d)(4)(C).*

Grade and Credit Protections

A child's grades may not be lowered due to absences caused by a change in placement, a court appearance, or a court-ordered activity. *EC § 49069.5(g)-(h).*

Local educational agencies must award all students (not just foster youth) with credit for full or partial coursework satisfactorily completed at a public school, juvenile court school, or non-public, non-sectarian school or agency. *EC § 48645.5.*

The California Foster Youth Education Task Force is a coalition of more than 35 organizations dedicated to improving educational outcomes for foster youth. For more information, please contact Erin Saberi, Casey Family Programs, at 916.503.2950 or esaberi@casey.org.

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