

CCC Policy Briefing

Educational Stability for Children in Foster Care

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Foster Care and Education



Children in Foster Care

- 25,925 children in foster care in NY as of December 2008
 - Approximately 16,000 (62%) were in NYC
 - Approximately 70% were school-age
 - In NYC there were 7,451 admissions and 7,466 discharges from foster care during FY 2008

- 66% return to their parent upon discharge from foster care

- 54% are discharged from foster care within 2 years

- Median length of stay in foster care in NYC is 9.3 months



School Mobility



- Average of 1-2 home placement changes per year while in foster care
- Study of former foster children in OR and WA found 65% had **7 or more school changes** from elementary through high school
- School mobility has a negative effect on achievement
 - Children lose 4-6 months of educational progress with each school change
 - In a CA study, high school students who changed schools even once were less than half as likely to graduate as those who did not change schools

Educational Outcomes for Children in Foster Care

- Frequent grade repetition
 - WA study found that youth in foster care are twice as likely to repeat a grade
 - Nearly 45% of youth in foster care in NY State report being held over at least once
- Low graduation rates
 - Youth in foster care are twice as likely to drop out
- Poor college completion rates
 - By age 24, only 6.2% of former foster youth had earned a 2 or 4 year college degree (compare to 33.6% of the general population)



Parallels to Other Highly Mobile Children

Students in Temporary Housing

- McKinney Vento Homeless Assistance Act
 - Applies to any child who lacks a nighttime residence that is “fixed, regular and adequate,” including children “awaiting foster care placement”
 - Right to remain in school of origin or enroll in school that serves the area where the student is temporarily housed
 - Right to transportation back to school of origin
 - Right to enroll without documents typically required for registration
 - LEA’s must identify a liaison for students in temporary housing
 - States must have a dispute resolution process



Parallels to Other Highly Mobile Children



Children in Military Families

- Interstate Compact on Educational Opportunity for Military Children
 - ▣ Sets 10 day timeline for sharing school records and transcripts
 - ▣ Requires new school district to comply with a child's previous placement in honors, IB, AP, vocational and CTE course
 - ▣ Flexibility to waive prerequisites and graduation requirements
 - ▣ Allows 12th graders to receive diploma from sending state if they cannot meet local requirements on time

Children of Migrant Workers

- Migrant Student Information Exchange
 - ▣ Sets minimum data elements that states must collect about migrant students
 - ▣ Links state databases to facilitate transfer of records

Fostering Connections to Success and Increasing Adoptions Act of 2008

□ **School Stability**

- Case plan must include an assurance that the child welfare agency has coordinated with local educational agencies to “ensure that the child remains in the school in which the child is enrolled at the time of placement.”
- If remaining in the school is not in the child’s best interests, the case plan must include an assurance that the child welfare agency and the local educational agency will provide “immediate and appropriate enrollment in a new school” and arrange for transfer of school records

□ **Funding for Transportation**

- Defines “foster care maintenance payments” to include the cost of “reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement.”
- States can access federal matching dollars to help cover the cost of transportation

Policy Guidance from HHS



The U.S. Department of Health and Human Services issued policy guidance in July 2010

- School stability requirements apply only to child's initial placement into foster care (though agencies are encouraged to apply the standards to subsequent changes in placement as well)
- School stability plan must be developed no later than 60 days after a child's removal from home
- Plan is jointly developed by agency and the child's parents (though agencies are encouraged to include other parties)
- Agency makes "best interests" determination and documents in case plan
- Agency determines what factors to consider when making "best interests" determination, but cannot consider cost
- Agency may claim Title IV-E matching funds whether child is in initial foster care placement or a subsequent placement

NYS Emergency Regulations

- Child welfare agency must coordinate with local school authorities to ensure that:



- Child remains in the same school in which the child was enrolled when placed in foster care, if it is in the child's best interests to do so
- Child is provided with immediate and appropriate enrollment in a new school, if it is not in the child's best interest to remain in the school of origin
- All applicable school records are provided to the new school

Barriers to Implementation

- Gaps in Existing Federal Law and State Regulations
 - Best interest determination
 - Transportation
 - No timeline or procedure for records transfer
 - Dispute Resolution
 - Enforcement
- Local Control of School Districts
- State and Local Laws
- Well-Entrenched Child Welfare Practices



Implementing Fostering Connections

Programs in Other States



Older Educational Stability Models

□ California

- Originally entitled students to stay in their school of origin for the remainder of the school year. Recently amended to allow children to stay in their school of origin for the duration of their stay in foster care.
- Creates foster care liaison positions within local school districts
- Best interest determination made by liaison, in consultation with the educational decision-maker and the child
- No transportation mandate



Eligibility under the McKinney-Vento Act



□ Delaware

- Treats all students in foster care as “awaiting foster care placement” and eligible for McKinney-Vento protections

□ Michigan

- Dept. of Education considers any child who has been in a foster care placement for <6 months as eligible for McKinney-Vento assistance
- When the child is no longer McKinney-Vento eligible, Dept. of Human Services becomes responsible for transportation
- Recent law allows students in foster care to remain in their school of origin, even if they live outside the school district

Recently Enacted Laws



□ Indiana

- Dept. of Children's Services and foster parent make the best interest determination, unless the decision is made by a court that has jurisdiction
- If a student is placed in a foster home within the original school district, the local school corporation must provide transportation
- If a student is placed in a neighboring school district, the two districts must reach an agreement about transportation or split the cost equally

□ Louisiana

- DSS makes the best interest determination
- School districts transport students within district
- For students placed outside of the school district, DSS must transport the student from his or her residence to the school district boundary, where the school district assumes responsibility for transportation

Recently Enacted Laws

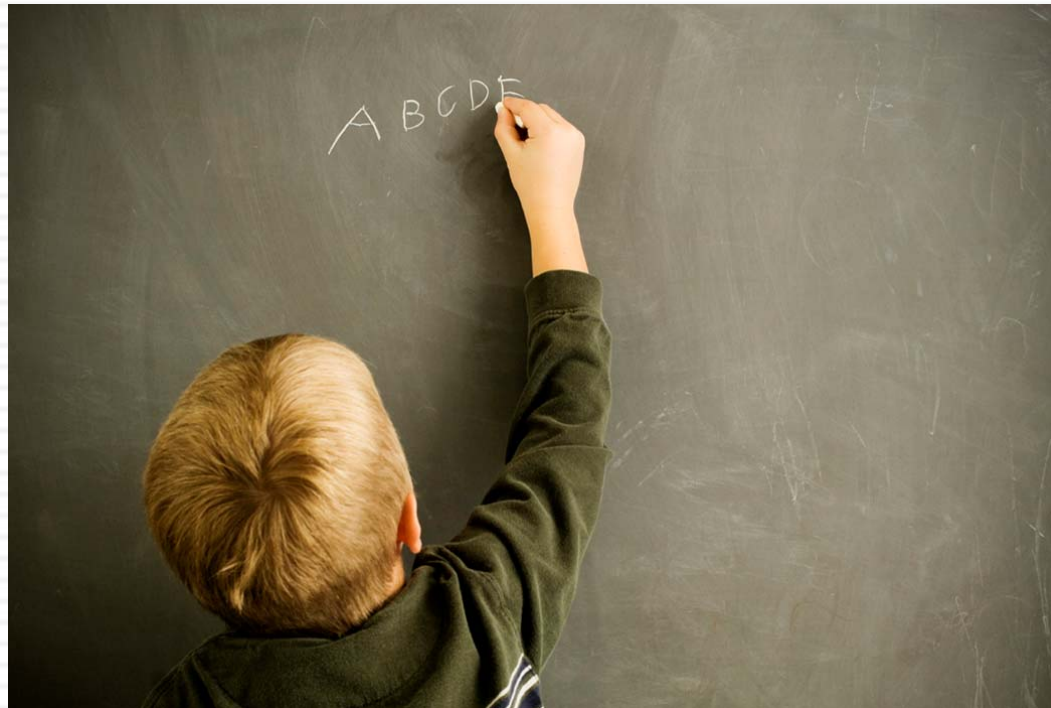
□ Connecticut

- Creates presumption that child should stay in school of origin
- Placement decision can be revisited at any time
- Department of Children and Families must provide written notice to all parties that identifies factors that form basis of the decision
- In case of dispute, parties must object within three days, administrative hearing will be held within three days of objection, and child has right to stay in school of origin until dispute is resolved
- Provides that if in child's best interest to change schools, student records must be transferred to the new school within one business day



Implementing Fostering Connections

New York Efforts



Implementation in NYC



- Formation of Educational Stability Collective that partners key stakeholders to develop strategies for implementation.
- Data collection on entries into foster care to begin identifying patterns and factors (ongoing)
- Desktop aid for DCP, foster care workers, & conference facilitators
- Training and reinforcement with foster care and DCP staff
- Development of strategy to maximize identification of students eligible for McKinney-Vento transportation assistance
- Use of Geographic Information System (GIS) technology as tool in placement/re-placement (ongoing)
- Creation of blog (<http://nycedstabilitycollective.wordpress.com>) to share resources and information

Implementation in New York State



NY Senate Bill 6185 would amend the Social Services Law, Education Law, and Family Court Act to give children in foster care rights similar to students in temporary housing

- Best Interests Determination made by consensus of the local social services district, the parent, and the child (through his or her attorney)
- Disputes between the parties to the Family Court proceeding are resolved by motion to the Family Court
- Disputes involving a school district are handled by complaint to SED, as provided for under McKinney-Vento
- Factors to consider when determining “best interests”: safety, distance (length of commute), access to specialized supports and services, the child’s and parent’s preferences. May not consider the cost of transportation.

Implementation in New York State



NY Senate Bill 6185 cont'd

- Students are entitled to transportation to remain in their school of origin
 - Emergency transportation is funded by DSS
 - Students are “awaiting foster care placement” until the end of the school year in which they enter foster care. LEA is responsible for transporting the child to the school of origin
 - After the first school year in which the student entered foster care, DSS is responsible for transporting the child to the school of origin
 - Eligibility ends at the end of the school year in which the student is final discharged from foster care
- New school must request records within 1 business day, and old school must send records within 5 business days

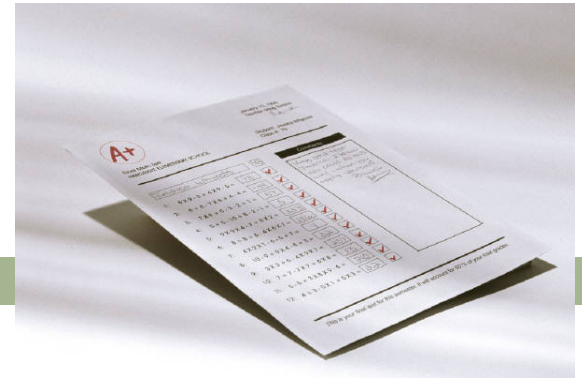
Proposed Federal Legislation

The Fostering Success in Education Act



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General Framework of Senate Bill 2801



- Creates McKinney-Vento like system of rights for all students in foster care
 - Entitles children in care to remain in their school of origin
 - Schools must admit students in foster care into school immediately, even without the documents normally required for enrollment
 - Students are entitled to transportation back to their school of origin
 - Gives students the right to transfer school credits, receive partial credits, and participate in programs to recover credits lost due to placement instability
 - States must develop procedures for resolving disputes, with the right to immediate enrollment while the dispute is pending; creates private right of action in federal court
 - Provides federal grants for implementation

Key Points in Senate Bill 2801

- State and local education agencies must collaborate with child welfare agencies to ensure school stability for children in care
 - Every LEA must designate a foster care liaison
 - Local child welfare agencies must designate education liaisons
- States decide if the best interest determination is made by the LEA, Family Court, state or local child welfare agency
 - Exception: the Court's decision is always binding on all parties
 - Long list of factors to be considered when deciding best interest
- The state child welfare agency is ultimately responsible for necessary transportation; may reimburse or enter into cost-sharing agreements with school districts

Fostering Connections in Action

Remedies for Individual Students



Charlie's Story



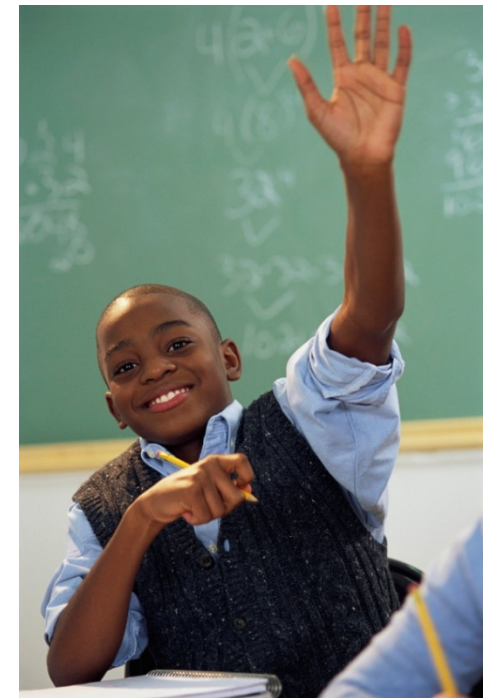
Charlie lives in Brooklyn. He is 9 years old and in 4th grade. Charlie has autism spectrum disorder and is enrolled in a special education class in his local school district. He also receives speech therapy, occupational therapy, and counseling, and he travels to school on the school bus. Like any child, he has ups and downs, but overall, Charlie has been progressing well in school.

Charlie was just placed into foster care. His agency is exploring some of Charlie's relatives as possible kinship placements, but at the moment, he lives with a foster parent in a neighboring school district. The foster parent has several other children in her home with special needs and cannot bring Charlie to and from school every day.

How can Charlie achieve school stability?

Make an argument that Charlie is entitled to remain in his school of origin and receive transportation under:

- The McKinney-Vento Homeless Assistance Act
- The Individuals with Disabilities Education Act
- The Fostering Connections Act



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