

How Can I Support the School Stability and Success of Students in Foster Care?

Federal and state law support the need for school stability for children in foster care, and state and local child welfare agencies, education agencies, and the courts must work together to implement these laws. This factsheet provides a summary of the requirements under federal and state law, as well as information about where to go for additional information.

WHY SCHOOL STABILITY MATTERS

Children in foster care experience frequent changes in where they live - when they are initially removed from home and placed into foster care, when they move from one foster care placement to another, and when they exit foster care. All too often, these changes in living placement result in changes in where they go to school. Changing schools, also known as “school mobility,” has negative effects on academic achievement and is associated with dropping out and poor academic outcomes. Moving schools is also disruptive because it takes children away from teachers and friends making it more difficult to form supportive relationships.

School stability means that a child in foster care remains in the same school when the child’s living placement changes – even when the child is moving to another zone of attendance or district – unless a school change is in the child’s “best interest.” School stability helps students socially and academically.

FEDERAL AND STATE LAWS THAT SUPPORT SCHOOL STABILITY

Recognizing the importance of school stability, in 2008, Congress enacted the *Fostering Connections to Success and Increasing Adoptions Act* (Fostering Connections).¹ That federal law requires child welfare agencies to focus on school stability when making decisions about where a child in foster care is placed to live. Fostering Connections also requires child welfare agencies to collaborate with school districts to ensure school stability for children and youth in foster care, and to ensure prompt enrollment in a new school if remaining in the same school is not in the best interest of the child. In 2015, Congress passed the *Every Student Succeeds Act* (ESSA) that requires state and local educational agencies to collaborate with child welfare agencies to ensure these protections for all children and youth in foster care.² To implement ESSA and to support the educational success of students in foster care, on July 1, 2017 Nevada enacted Assembly Bill 491 (AB491).³

¹ To learn more about the education stability provisions of Fostering Connections, please see this factsheet developed by the Legal Center for Foster Care and Education: [Foster Care & Education Q&A](#)

² To learn more about the foster care provisions of the ESSA, please see this factsheet developed by the Legal Center for Foster Care and Education: [Foster Care & Education Q&A: ESSA](#)

³ Full text of the bill available at [Assembly Bill No. 491 - Committee on Education](#)

THE RIGHTS OF STUDENTS IN FOSTER CARE UNDER AB491

All those working with students in foster care – child welfare caseworkers and staff, school teachers and administrators, judges and attorneys, foster parents and caretakers, parents and relatives – should be aware of the rights and protections for students in foster care related to their education stability and success. AB 491 requires:

BEST INTEREST DECISION WHEN LIVING PLACEMENT CHANGES

When a child enters foster care, or changes living placements while in foster care, the child welfare agency must make a determination about whether it is in the child's best interest to remain in the same school. The presumption is that the child should stay in the same school. In determining if it is in the best interest of the child to change schools, the child welfare agency must consult with the school and consider: the wishes of the child, the educational success, stability and achievement of the child; an individualized education program (IEP) or 504; whether the child has been identified as an English learner; the health and safety of the child; the availability of necessary services for the child at the school of origin; and whether the child has a sibling enrolled in the school of origin. The costs of transportation for the child to remain in the same school must not be considered when making the best interest decision. If the child welfare agency determines that it is in the best interest of the child to change schools, then it must provide written notice of the decision to all interested parties as soon as practicable. The juvenile or family court judge has ultimate oversight of the child's case plan; therefore, the court can make a determination related to school of origin best interest decisions.

RIGHT TO REMAIN IN THE SAME SCHOOL

Students in foster care are able to attend a public school outside the zone of attendance where the child is living. Specifically, they have the right to attend their "school of origin," which means the school they were enrolled in when they were first placed into foster care, or the school they are enrolled in when their foster care living placement changes.

RIGHT TO TRANSPORTATION TO SUPPORT SCHOOL STABILITY

For the entire time a child is in foster care, and until the end of the school year when a child leaves foster care, the child is entitled to transportation to ensure school stability. The child welfare agency and education agency are jointly responsible for the costs of school transportation unless these agencies agree otherwise. The intent of the law is that the agencies are jointly responsible for the time a child is in foster care, and that the education agency will provide transportation for the remainder of the school year if the child exits foster care. If a dispute arises related to transportation that is not resolved within five business days, the juvenile or family court must resolve the dispute by court order within five business days. Pending any dispute, the child is still entitled to transportation and the child welfare agency and education agency are jointly responsible for providing it.

RIGHT TO IMMEDIATE ENROLLMENT IN A NEW SCHOOL

If the child welfare agency, in consultation with the school of origin, makes a determination that it is in the best interest of the child to attend a new school, the child welfare agency must collaborate with the new school to ensure that the child is immediately enrolled in the new

school, even if the child lacks any typically required documentation such as a birth certificate, school records or immunization information.

FOSTER CARE AND EDUCATION POINTS OF CONTACT (POC)

To foster collaboration among agencies and ensure that the provisions of this law are implemented effectively, state and county child welfare and education agencies are each required to designate a “point of contact” (POC) for foster care and education. These individuals must develop the policies or procedures necessary to comply with the law, including those necessary to ensure communication among the Department of Education, Department of Child and Family Services, and county child welfare agencies and school districts; and transportation of children to schools of origin, including developing a plan to pay for transportation.

- **The POC for the Nevada Department of Education is:** Colin Usher, Education Program Professional, 775-687-2450, cusher@doe.nv.gov
- **The POC for the Nevada Division of Child and Family Services is:** Dorothy Pomin, Foster Care Program Specialist, (775) 684-4434, dpomin@dcfs.nv.gov
- **The List of POCs for Each School District and Child Welfare Agency** will be maintained on a Nevada Department of Education Foster Care Website (coming soon).

ANNUAL REPORT ON ACADEMIC PROGRESS OF ALL STUDENTS IN FOSTER CARE

The State Board of Education must prepare an annual report about the academic progress of children in foster care that includes statewide achievement score results as well as graduation rates. Each local education agency must prepare and submit a report to the Department of Education on the academic progress of students in foster care in that district. To ensure accurate information about which students are in foster care, the child welfare agency must provide needed information to the local education agency.

ACADEMIC INFORMATION SUBMITTED TO JUVENILE COURT FOR STUDENTS IN FOSTER CARE

AB491 also amended the academic information that must be submitted by the child welfare agency to the court for children in foster care at least semi-annually. In particular, the child welfare agency must submit the child’s “academic plan” required to be developed by the school for all students in foster care under NRS 388.155. The academic plan must be developed by the school for every student in foster care, and must include consideration of the unique circumstances and educational background of the child and be developed with the goal of achieving academic success. AB491 also requires the child welfare agency to submit to the court: the grade and school enrolled as well as past schools and dates of attendance; whether the child is deficient in credits; a copy of the child’s individualized education program or 504 plan, and any special education services received, and any special education evaluations requested or completed; and whether a surrogate parent should be appointed.