



Educational Stability for Youth In Foster Care

July 2017

Vermont Juvenile Court Improvement Program (CIP)

This Info-bulletin is on the importance of educational stability for children in foster care, and how the federal Every Child Succeeds Act (ESSA) promotes school stability.

Educational Stability for Foster Care Youth Federal Laws

In 2008, the federal Fostering Connections to Success and Increasing Adoptions Act¹ required child welfare agencies to have a plan in place that ensured educational stability for children in foster care. The law requires DCF to coordinate with local education agencies (LEAs) to ensure children remain in the school they are attending at the time of out-of-home placement, unless remaining in that school has been determined not to be in their best interests.² In 2014, Vermont DCF and UVM's Center on Disability and Community Inclusion, in conjunction with VT-FUTRES (Fostering Understanding to Reach Educational Success), reported 3 years of Vermont data on school changes for youth in foster care and found that approximately 2/3 of foster children remained in their home school after entering DCF custody.³ The issue was a pressing one as research found that:

- Every time a student moves, they lose 4-6 months of academic progress with each school placement change.
- High School students who changed schools even once were half as likely to graduate as youth who remained in the same school.
- Educational outcomes for foster youth lagged behind national averages in standardized test scores, a disparity linked to frequency of school changes.⁴

In December 2015, President Obama signed into law the Every Child Succeeds Act (ESSA)⁵, which further enhances educational stability for youth in foster care. ESSA amends Title 1 of the Elementary and Secondary Education Act of 1965 (ESEA) and essentially creates obligations for state education agencies (SEAs), that complement the educational stability obligations that were created for child welfare agencies under the Fostering Connections law. The purpose of the new law is to “ensure that children in foster care experience minimal educational disruption as the result of foster care placement and receive the same opportunities as their peers to develop the skills necessary to be successful in school and life.”⁶

Children have two primary rights under the provisions of ESSA pertaining to foster youth. First, children are entitled to remain in their “school of origin,” unless this is found not to be in their best interests.⁷ If it’s determined that remaining in the school of origin is not in the child’s best interests, the child then has a right to be enrolled immediately in the new school district where the child is living, even if school records normally required for enrollment are not immediately available.⁸ “School of Origin” can be defined as the school the child was attending when the student entered foster care, or if the child was already in DCF custody, the school the student was attending prior to moving foster placements.⁹

¹ Pub. L. 110-351.

² *FAST FACTS*, VT-FUTRES, accessed at www.vtfutres.org.

³ VT-FUTRES School Stability Summary (August 2014). Between 2005-2008, there was also interagency work (Education, Mental Health, and DCF) in Vermont on school stability issues in collaboration with a national Casey Family Services initiative focused on Improving Educational Continuity and School Stability for Children in Out-of-Home Care.

⁴ See *supra* note 2.

⁵ 20 U.S.C. §1000, et seq. (2015). The law is the latest reauthorization of the Elementary and Secondary Education

Act which was, prior to ESSA, last reauthorized in 2002 as the No Child Left Behind Act.

⁶ See U. S. Department of Education letter of guidance to Chief State School Officers dated 12/5/16.

⁷ *Foster Care and Education Q and A*, Legal Center for Foster Care and Education, accessed at www.fostercareandeducation.org

⁸ *Id.*

⁹ *Every Student Succeeds Act: Students in DCF Foster Care*, Alicia Hanrahan, Education Programs Manager and Interagency Coordinator, Vermont Agency of Education, Power Point Presentation for Justice For Children Task Force (April 2017).

It's important to note here that the law does not cover all foster care children nor does it cover children living under conditional custody orders. Foster children excluded from the law include children who are living in residential placements with a school component, and those living in foster homes under the auspices of other agencies, such as the Department of Mental Health, but who are not in DCF custody.¹⁰

The Best Interests Determination

ESSA requires that child welfare and education agencies collaborate in making educational best interests determinations for youth in foster care. The process begins with a meeting of the child's educational team. The team consists of the student, if appropriate; DCF social worker; representative from the school of origin; representative from the new school; and others as applicable, including parents, foster parents, guardians ad litem and educational surrogate parents.¹¹

If the team agrees that it's in the child's best interests to remain in their school of origin, the Educational Stability Agreement Form (FS-72a) is completed by the team.¹² The form documents that the child will remain in the school they are currently enrolled in and also the transportation arrangements agreed to between DCF and its education partners. (Note that under DCF [Policy 72](#), the relevant policy on educational stability for foster youth, transportation costs cannot be the reason a best interests placement is denied.) On the other hand, if the team cannot agree as to whether it's in the child's best interests to remain in the school of origin, the Educational Stability Best Interest Determination (BID) Form (FS-72b) must be completed. Best interests considerations noted on the form include:

- What is the child's preference? Does the student feel that remaining in their school of origin is in their best interests?
- Do the parents/prior custodians feel that their child's best interests are served by remaining in the school of origin?
- Given the child's developmental needs, if there is a commute for the child, does the team feel the distance of the commute is appropriate for the child?

- Will remaining in the same school positively impact the child's social, emotional, and/or behavioral well-being?
- Will remaining in the school of origin have a positive impact on the child's academics?
- Does the child's permanency plan support the child remaining in the school of origin?
- Does the school of origin have an array of services available to meet the child's needs?

The BID form is then sent to the two agency points of contact for DCF and AOE, Barb Joyal and Alicia Hanrahan respectively, who engage in collaborative discussions regarding the best interests determination. The final decision is made by the Commissioner of DCF.¹³

Judges' Checklist

When it comes to educational stability for foster youth, judges can play an important role in ensuring compliance with the law by asking the following types of questions at permanency and other court hearings:

- Is current education status documented?
- Has there been school stability since the last hearing?
- Is educational history documented?
- Are school records being accessed as needed?
- Does the child have a voice in education decisions and planning?
- Are adults involved as education advocates?
- What about school attendance and performance?
- Have any special needs been identified and are they being addressed?¹⁴

Closing Thoughts

School stability for children in foster care has long been recognized in Vermont as an issue requiring close interagency collaboration. Hopefully with the implementation of ESSA, DCF and the Agency of Education will work even more closely together to ensure that children's educational best interests are front and center every time a child is removed from their home or moved between foster placements. Achieving best educational outcomes for foster youth demands nothing less.

¹⁰ *Id.*

¹¹ *Id.* Note that the team might not meet if the team agrees that a child should remain in his or her school of origin.

¹² *Id.*

¹³ *Id.*

¹⁴ *Advocating for Educational Stability for Youth in Foster Care*, Child Law Practice Vol. 36 (May/June 2017). Accessed at www.americanbar.org/publications/child_law_practice/vol-36.