



# FACT SHEET

## RIGHTS OF STUDENTS IN FOSTER CARE

August 2025

Children involved in the foster care system have the right to a free public education, like all other students. These rights are not lost because of system involvement, and additional protections are in place to ensure that students in foster care have access to a quality public education.

Children and youth in the foster care system are among the most educationally underserved of all student populations, and they need strong advocates. They often face preventable cross-system barriers to accessing their “fundamental right” to education.<sup>1</sup> Children in foster care experience a change in living placements on average two to three times while in care, and one-third of older youth experience five or more school changes.<sup>2</sup> Each of these school changes typically causes a student to lose four to six months of academic progress.<sup>3</sup> As a result of multiple school changes and placement in congregate care settings that use “on-grounds” schools, a quality public education is often not received by students in foster care. This fact sheet highlights important protections for children in foster care and describes ways to support the academic progress of these students.

### THE IMPACTS OF SYSTEMIC RACISM ON CHILDREN OF COLOR IN THE CHILD WELFARE SYSTEM

Yes. Nationally, the overrepresentation of Black children in the child welfare system has been well documented across numerous studies.<sup>4</sup> The same is true in Pennsylvania. As explained in the Pennsylvania Department of Human Services [2021 Racial Equity Report](#) – which documented the impact of racial injustice across systems in Pennsylvania – 35% of children in foster care in Pennsylvania are Black, despite Black children making up only 13% of the state’s total child population.<sup>5</sup>

Racial inequities must be understood to result from individual racial bias that directly impacts decision-making in the child welfare system, as well as from systemic racism, whereby communities of color are intentionally denied and divested of resources that are diverted toward white communities through federal, state, and local policies.<sup>6</sup> For example, white families who are system-involved are more likely to receive less punitive interventions, such as family and home support, while Black families are more likely to be subjected to more punitive interventions and heightened surveillance.<sup>7</sup> As a result, Black children are disproportionately removed from their homes and funneled into and harmed by the child welfare system.<sup>8</sup>

As detailed in a May 2025 report jointly written by Education Law Center-PA (ELC-PA) and PA Partnerships for Children, [Supporting Success for Pennsylvania’s Students in Foster Care: Data, Outcomes, and Stories from the Field](#), students in foster care are negatively impacted by systemic educational barriers, including high rates of school mobility due to children changing foster care placements, schools’ failure to provide appropriate services, and the disproportionate higher use of

school discipline often driven by systemic racism and individual racial bias.<sup>9</sup> All of these factors contribute to school pushout<sup>10</sup> and result in negative academic outcomes for students in care.<sup>11</sup>

## RIGHT TO SCHOOL STABILITY AND IMMEDIATE ENROLLMENT FOR CHILDREN IN FOSTER CARE

Under the federal law called the Every Student Succeeds Act (ESSA), students in foster care have the right to remain in the same school for the duration of their time in care, even when they change living placements.<sup>12</sup> Joint federal guidance issued in 2024 by the U.S. Departments of Education (ED) and Health and Human Services (HHS) (hereinafter referred to as the 2024 joint federal guidance) recommends that schools provide school stability within feeder patterns.<sup>13</sup> For example, when a student transitions from middle to high school, they should attend the same high school as their peers.<sup>14</sup> In addition, the 2024 joint federal guidance urges local educational agencies (LEAs) and school districts to permit students who exit foster care during the academic year to remain in the same school “through at least the end of the school year.”<sup>15</sup> If a determination is made that staying in the same school is not in a child’s best interest, the child has a right to immediate enrollment in a new school, even if the child is unable to produce records normally required for enrollment.<sup>16</sup>

## DOES THE RIGHT TO SCHOOL STABILITY APPLY TO STUDENTS IN RESIDENTIAL PLACEMENTS?

Yes. The right applies to all children in foster care, including those in residential settings. In May 2023, the Pennsylvania Department of Education (PDE) issued a [Penn\\*Link](#) message to school entities across the commonwealth, reemphasizing this and the obligation to conduct a “best interest determination” (BID) for students in foster care in residential placements: “While it may not always be feasible for students in foster care residing in residential facilities to remain in their school of origin, changes to an educational placement should only be determined through the BID process. **A facility’s on-site school should never be presumed to be the default educational placement.**”<sup>17</sup> Students in residential settings also have a right to immediate enrollment in the local public school where the residential placement is located.<sup>18</sup>

## SCHOOL STABILITY DECISION-MAKING PROCESS

Every time a child in care is moved to a new living placement, there must be a **“best interest determination”** (BID) conference concerning whether the child will stay in the same school.

The 2024 joint federal guidance encourages schools to convene a BID meeting “as quickly as possible” and no later than three business days after a child is placed in care to “prevent educational discontinuity.”<sup>19</sup> Further, it recommends that when there is a “planned” change in living placements, the BID take place “prior to the planned placement change.”<sup>20</sup>

In addition to representatives from the child’s prior school district (or other local education agency contact) and the child welfare agency, the meeting should include:

- The child’s legal educational decision maker,<sup>21</sup>

- This person may be the child’s biological parent, a foster parent, a caregiver, a surrogate parent, or an educational decision maker (EDM) appointed by a court.<sup>22</sup> Please see the section below on Right to a Surrogate Parent to learn more about this important role.
- The biological parent,
- The foster parent, and
- The youth.
  - Notably, the 2024 joint federal guidance acknowledges that it is “critical” that the student be included, when appropriate.<sup>23</sup>

**Remember: A child’s legal educational decision-maker must be included in the BID.**

Importantly, under guidance issued by the state through the PA Foster Care October 2024 Bulletin, BID “participants must include the student’s education[al] decision maker(s) (EDM) and the student (where appropriate).”<sup>24</sup>

The BID process cannot be predetermined. It must be “student-centered and context-specific” and based on all factors relating to the child’s best interest, including consideration of the appropriateness of the current educational setting, the needs of the child, and the proximity to the school in which the child is enrolled at the time of placement.<sup>25</sup> The BID conference also must consider and comply with any court order issued by a judge in a dependency or delinquency case.<sup>26</sup> State guidance clarifies that a modified court order must be sought and obtained before changing a child’s education placement, as listed in the original court order.<sup>27</sup> The best interest determination form from PDE may be [downloaded here](#).

As discussed below, transportation to support a student’s school stability is determined by agreement between the LEA and the child welfare agency.<sup>28</sup>

## SUPPORTING SCHOOL STABILITY THROUGH TRANSPORTATION

When it is in a student’s best interest to remain in their school of origin, it is the responsibility of the LEA and child welfare agency to collaborate to arrange transportation, which is often governed by a Memorandum of Understanding between the agencies.<sup>29</sup> The 2024 joint federal guidance clearly states that “transportation costs ***should not be considered*** when determining a student’s best interest” (emphasis added).<sup>30</sup> To assist in paying for additional transportation costs connected to school stability, LEAs can use Title I funds and child welfare agencies can use Title IV-E funds for students in foster care to attend their schools of origin and access extracurricular opportunities.<sup>31</sup>

The Pennsylvania Department of Education (PDE) and Department of Human Services (PA-DHS) issued [Joint State Guidance](#) in 2016 on the roles and responsibilities of LEAs and county Children & Youth agencies to ensure school stability for children in foster care.<sup>32</sup> This guidance outlines how schools and agencies must collaborate at the local level to make student-centered best interest determinations and to develop memoranda of understanding and transportation plans to govern how transportation will be arranged and any additional costs shared to support students. This guidance makes clear that there is a presumption in favor of school stability and that children should remain in the same school

during the time that any dispute is pending. Adherence to this guidance is critical because data released by PDE in 2025 indicate that LEAs reported that 61% of all changes in school placement occurred due to “distance from the school of origin.”<sup>33</sup>

PDE has developed a [series of tools and resources](#) available on the [www.pafostercare.org](http://www.pafostercare.org) website for LEAs and child welfare agencies to use in determining best interests, developing or revising a transportation plan, and addressing and resolving disputes, including:

1. [Transportation Procedures Agreement Memorandum of Understanding \(MOU\)](#)
2. [Local Transportation Plan Template](#)
3. [Pennsylvania Transportation Plan Guide](#)
4. [Best Interest Determination \(BID\) School Placement Form](#)

## HOW TO RESOLVE BEST INTEREST DETERMINATION DISPUTES

If a dispute arises regarding whether a child in foster care is entitled to school stability or immediate enrollment in a new school, you should talk to the school district or charter school’s point of contact (see above for links). If the dispute is not resolved, you may contact the [Foster Care Regional Coordinator](#).

If the Regional Coordinator does not resolve the dispute, you may contact Pennsylvania’s designated State Foster Care Coordinator:

Matthew Butensky  
Youth Development Project Manager  
Educational Stability for Children and Youth in Foster Care  
Center for Schools and Communities  
275 Grandview Avenue, Camp Hill, PA 17011  
717-763-1661 x171; 570-238-0258 (cell); 717-763-2083 (fax)  
[www.center-school.org](http://www.center-school.org)  
<http://www.pafostercare.org/>

## POINTS OF CONTACT FOR STUDENTS IN FOSTER CARE

To help ensure school stability and immediate enrollment for children in foster care, LEAs and county children and youth agencies must designate points of contact for children in foster care. In the child welfare system, they are known as education liaisons. In a school setting, they are called Foster Care Points of Contact. LEA Foster Care Points of Contact are responsible for facilitating the best interest determination, ensuring that children in foster care are immediately enrolled in and attending school, and ensuring the transfer of student records including immunizations, medical records, and copies of IEPs and Section 504 plans. The 2024 joint federal guidance recommends that this records transfer to the enrolling school be completed within three business days.<sup>34</sup>

To identify your school district or charter school’s point of contact, see the [LEA School Point of Contact Directory](#). To contact an education liaison at a county children and youth agency, see the

[County Children and Youth Services Education Liaison Directory](#). In addition, PDE has designated Foster Care Regional Coordinators who can help students, families, and others resolve education issues facing children in foster care. A listing of these coordinators can be found at the [Regional Foster Care Office Directory](#).

## RIGHT OF STUDENTS IN RESIDENTIAL PLACEMENTS TO ATTEND THE LOCAL PUBLIC SCHOOL

Unless a court order states otherwise, students in foster care have a legal right to attend the local public school where their residential placement is located.<sup>35</sup> This important right is often overlooked, and too often, children and youth in residential settings are directed to attend on-grounds schools by default. While their peers attend public schools that must meet specific state standards, children attending separate on-grounds schools typically receive a subpar education, which undermines their ability to graduate from high school.<sup>36</sup> Placing students with a history of truancy in such settings often increases their risk of dropping out of school because residential placements with on-grounds schools often provide only limited curricula and fewer hours of instruction, causing students to fall further behind in their coursework.<sup>37</sup> Accordingly, the Pennsylvania Dependency Benchbook instructs judges that youth in congregate care should attend a public school unless the court finds a public school not to be in the youth's best interest.<sup>38</sup>

[Joint Guidance](#) issued by PDE and PA-DHS also addresses these issues and other rights of students in non-educational residential placements. This guidance specifically prohibits “bundling,” which means that a residential placement cannot require a child placed in a residential setting to attend its on-grounds school as a condition of their placement. Moreover, a residential team must support the student by facilitating immediate enrollment in the neighborhood school where the residential placement is located unless a court order or IEP team identifies another school placement.

## ACT 1 OF 2022 PROVIDES NEW PROTECTIONS FOR YOUTH IN CARE

In January 2022, Pennsylvania adopted Act 1, codified at 24 Pa. Stat. § 13-1331.1, which seeks to remove educational and graduation barriers for students who experience education instability (school disruptions) due to homelessness, foster care, involvement in the juvenile justice system, or court-ordered placements. Act 1 addresses barriers to school participation and timely graduation by ensuring that each eligible student has an assigned point of contact,<sup>39</sup> is placed in the correct courses,<sup>40</sup> and can participate in extracurricular activities.<sup>41</sup> In addition, assigned points of contact must ensure that a child's records transfer in a timely manner,<sup>42</sup> and all school entities must “waive each fee that would otherwise be assessed against the student.”<sup>43</sup>

For youth in high school, full and partial credits earned must be recognized, and each student must have a graduation plan that considers different methods of earning missing credits and alternative pathways to graduation. Act 1 applies to students who experienced one or more school disruptions in a year. It applies to those returning to a formerly attended school, starting at a new school, or reengaging in school after an extended absence. The act also applies to students who attended school in the 2021-22 school year. You can learn more about Act 1 in ELC's fact sheet [here](#) and use our [self-advocacy tools](#) to support Act 1-eligible students.

## PROMISING PRACTICES TO SUPPORT STUDENTS IN CARE AT SCHOOL

Research demonstrates that children who are “highly mobile,” including students in foster care, are disproportionately harmed by the use of exclusionary school discipline policies and practices.<sup>44</sup> They are often “subjected to more exclusionary school discipline based on race”<sup>45</sup> and/or for behaviors that may be best understood within the context of a child’s trauma history around their experiences in care.<sup>46</sup>

As disclosed in our recent report, Pennsylvania schools are three times more likely to impose an out-of-school suspension and two times more likely to impose an in-school suspension on students in foster care than their peers who are not in care.<sup>47</sup> Black and Brown students, who are already disproportionately represented in the foster care system,<sup>48</sup> also experience higher rates of exclusionary suspension due to individual racial bias by school decision-makers and systemic racism.<sup>49</sup> The 2024 joint federal guidance urges schools to take intentional steps to support students in foster care by considering a student’s circumstances and trauma history *before* taking disciplinary action and using exclusion only as “a last resort.”<sup>50</sup> Our statewide report recommends that state law or school district policies should include considering foster care status as a mitigating factor before imposing exclusionary school discipline.<sup>51</sup>

The 2024 joint federal guidance also recommends that schools ensure outstanding fines and fees (e.g. library fines) do not serve as a barrier to graduation for all students in foster care.<sup>52</sup> Schools in Pennsylvania are encouraged to follow this lead and waive all fees for all students, not just those who are Act 1-eligible and already entitled to fee waivers,<sup>53</sup> to resolve these well-documented barriers.<sup>54</sup>

## CAN STUDENTS IN FOSTER CARE RECEIVE EXPEDITED EVALUATIONS OR REEVALUATIONS TO DETERMINE THEIR ELIGIBILITY OR CONTINUED ELIGIBILITY FOR SPECIAL EDUCATION SERVICES?

Yes. Students in foster care are more likely to be identified as being eligible for special education services than their peers<sup>55</sup> who have not had experience in care — more than 40% of students in foster care receive special education compared to just under 19% of their peers.<sup>56</sup> Under the Individuals with Disabilities Education Act (IDEA), a key special education law, all students who are suspected of having disabilities that would make them eligible for special education must be evaluated or reevaluated within 60 days after receiving a signed Permission to Evaluate (PTE) or Permission to Reevaluate (PTRE). Students who are considered to be “highly mobile,” which includes students who are involved in the child welfare or juvenile justice systems as well as students experiencing homelessness, can receive expedited evaluations and reevaluations. These assessments are completed **within 30 days rather than within 60 days**, in accordance with guidance from the U.S. Department of Education’s Office of Special Education and Rehabilitative Services.<sup>57</sup> It is best practice to evaluate all “highly mobile” students on an expedited basis to ensure they can receive needed evaluations and appropriate services, which are often disrupted because of frequent moves.<sup>58</sup> To learn more about students’ rights to timely evaluations, see ELC’s fact sheet on “[Special Education Evaluations](#),” and to learn more about students’ rights in the special education context, see ELC’s guide for parents and advocates, “[The Right to Special Education in Pennsylvania](#).”



In addition, if you are a parent, guardian, caregiver, EDM, or surrogate parent and need to request reasonable accommodations for yourself so you can meaningfully participate in educational decision-making for your student, please refer to ELC's [self-advocacy tool](#).

Many children in foster care also need accommodation in school for a qualifying disability under Section 504 but may not been identified. A qualifying disability is a physical or mental impairment that substantially limits one or more major life activities, such as caring for one's self, breathing, walking, seeing, hearing, speaking, and learning. This includes a child with asthma, attention-deficit/hyperactivity disorder (ADHD) and other mental and behavioral health disorders.<sup>59</sup> If you are a parent, guardian, caregiver, EDM, or surrogate parent and are aware that your child has a disability, discuss this with your school. To learn more, see our fact sheet, "[Accommodating Health Needs in School: 504 Plans](#)" and our "[Tool, Request for Determination of Eligibility for a 504 Plan](#)."

## RIGHT TO A SURROGATE PARENT

School districts are also required to appoint surrogate parents for students with disabilities who do not have either a birth parent, adoptive parent, or other individual authorized by the federal IDEA to act on a child's behalf in special education or early intervention matters.<sup>60</sup> The IDEA requires school districts to ensure that children who have been identified as needing special education or early intervention services, or who should be evaluated to determine eligibility, have an actively engaged parent or other authorized adult to participate in the special education proceedings and to make special education decisions.<sup>61</sup> For more information on what schools can do to support students who are system-involved, see "[Model School Policies and Practices to Support Students in Foster Care and in the Juvenile Justice System](#)."

## HOW SCHOOLS CAN SUPPORT STUDENTS IN FOSTER CARE RETURNING FROM PLACEMENT

Many children in foster care have been forced to attend several different schools as their placements changed and may have also attended an on-grounds school while they were in a residential facility. These students often face barriers to transitioning back to a neighborhood school due to their enrolling school's failure to obtain their prior records, apply their previously completed credits toward graduation, and identify the remaining courses they need to graduate.<sup>62</sup> For children in foster care with disabilities, federal guidance instructs that schools should expedite special education evaluations by completing reports in 30 days, rather than the full 60 days.<sup>63</sup> Schools can aid in this process by considering additional private evaluations or other reports conducted by child welfare agencies.

A student who is returning from placement and referred to an alternative school setting has the right to request a meeting or hearing to challenge the proposed placement. Students with disabilities returning from placement also have additional protections, such as a manifestation hearing.<sup>64</sup> Multilingual learners – also referred to as "English learners" – have special protections as well. See ELC's fact sheets on [alternative education placements of students with disabilities](#) and [multilingual learners](#).

## HOW COURTS SUPPORT STUDENTS IN FOSTER CARE

The Pennsylvania Rules of Juvenile Court Procedure require judges to ask about a child's education status, school placement, and the appropriateness of the child's education – including school

stability and access to special education and remedial education services – at all stages of the adjudicatory process.<sup>65</sup> For example, courts may issue orders directing a child to remain in the same school, be placed in a different school, or evaluated for special education services.

Courts are also required to ensure that every child in foster care has an active, involved educational decision maker (EDM).<sup>66</sup> A court is authorized to appoint an EDM for a student who is system-involved and who lacks a parent, guardian, or other person to serve in this role.<sup>67</sup> This EDM will remain responsible for that child until another EDM is appointed or the role is no longer needed. For more about EDMs, see [ELC's fact sheet on EDMs](#).

## SUPPORTING STUDENTS THROUGH THE FOSTERING CONNECTIONS ACT OF 2008

The federal Fostering Connections Act of 2008, which predates ESSA, imposes additional requirements specific to child welfare caseworkers to support youth in care in school. For example, caseworkers are required to consider **proximity and appropriateness** of the child's previous school when placing a child in out-of-home placement. Caseworkers must also work collaboratively to ensure school stability when it is in the child's best interest. This act further requires caseworkers to ensure immediate enrollment in a new school with records to follow.<sup>68</sup> In addition, under federal law, all child welfare agencies are required to maintain education records and important information regarding a student's progress in case files.<sup>69</sup>

## COLLEGE TUITION WAIVER FOR STUDENTS IN FOSTER CARE

[Act 16 of 2019](#) amended the Pennsylvania school code to create the Fostering Independence Through Education Waiver,<sup>70</sup> which provides a college tuition and fee waiver for certain eligible youth who have been in foster care. The tuition and fee waiver, aimed at reducing financial barriers, applies to undergraduate degrees at numerous colleges and universities in the state. This law also creates points of contact at participating institutions of higher education to help eligible students identify and apply for financial aid and scholarships, gather verification documents, and access campus and community resources and support services. The waiver can be used for up to five years until a young adult reaches age 26. To be eligible, a student must be identified as a youth who is or was in foster care, was discharged from foster care on or after attaining age 16, or exited foster care on or after age 16 to adoption or permanent legal guardianship. In addition, a student must be eligible for and apply to the federally funded Chafee Education and Training Grant Program. To learn more, go to Pennsylvania Higher Education Assistance Agency's website [here](#).

## THE FAMILY FIRST PREVENTION SERVICES ACT OF 2018<sup>71</sup>

Also known as the Family First Act, this federal legislation includes historical reforms to the way we view child welfare and how to best support youth in care. Family First emphasizes providing services to keep children safely with their families and avoid the traumatic experience of being removed from home and entering foster care. The law also emphasizes the importance of children growing up in families instead of congregate-care settings. The goal is to ensure that children are placed in the least restrictive, most family-like setting appropriate to their individual needs. One of the most significant changes is to how child welfare systems are funded to reduce the number of



children in foster care and reduce reliance on congregate-care settings. Every state is required to complete and publish a statewide plan to comply with Family First. Pennsylvania's statewide plan and the 5-Year Plan have now been approved. You can read the full submitted [plan](#). To learn more about Family First and its impact on students in care go to the PA-DHS Family First webpage [here](#).

The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, multilingual learners, LGBTQ students, and children experiencing homelessness.

ELC's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice – visit [www.elc-pa.org/contact](http://www.elc-pa.org/contact) or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) – or contact another attorney of your choice.

<sup>1</sup> William Penn Sch. Dist. v. Pa. Dep't of Educ., 294 A.3d 537, 947 (Pa. Commw. Ct. 2023) (establishing that education is “a fundamental right explicitly and/or implicitly derived from the Pennsylvania Constitution”).

<sup>2</sup> National Working Group on Foster Care and Education, *Fostering Success in Education: National Factsheet on Educational Outcomes of Children in Foster Care* 2 (Jan. 2014), <https://www.fc2success.org/wp-content/uploads/2012/05/National-Fact-Sheet-on-the-Educational-Outcomes-of-Children-in-Foster-Care-Jan-2014.pdf>. (See “Research and Statistics” header, collecting studies); Catherine S. Zorc, Amanda L.R. O'Reilly, Meredith Matone, Jin Long, Caroline L. Watts, David Rubin, *Children and Youth Services Review*, Volume 35, Issue 5, 2013, *The relationship of placement experience to school absenteeism and changing schools in young, school-aged children in foster care*, 826-833, <https://doi.org/10.1016/j.childyouth.2013.02.006>, (<https://www.sciencedirect.com/science/article/pii/S0190740913000704>).

<sup>3</sup> Katherine C. Pears, Hyoun K. Kim, Rohanna Buchanan & Philip A. Fisher, *Adverse Consequences of School Mobility for Children in Foster Care: A Prospective Longitudinal Study*, National Library of Medicine (Oct. 23, 2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4618793/>.

<sup>4</sup> Cenat, J. M., McIntee, S. E., Mukunzi, J. N., & Noorishad, P. G *Overrepresentation of Black children in Child Welfare*. (2020). *Overrepresentation of Black children in the child welfare system: A systematic review to understand and better act*. *Children and Youth Services Review*, 120, <https://doi.org/10.1016/j.childyouth.2020.105714>. <https://ncwwi.org/wp-content/uploads/2022/05/Overrepresentation-of-Black-children-in-Child-Welfare.pdf>

<sup>5</sup> See PA. DEP'T OF HUM. SERVS., RACIAL EQUITY REPORT 2021: LEADING THE FIGHT FOR JUSTICE, EQUITY, AND OPPORTUNITY FOR ALL PEOPLE 2 (2021) [hereinafter RACIAL EQUITY REPORT 2021], <https://www.pa.gov/content/dam/copapwp-pagov/en/dhs/documents/about/documents/2021%20DHS%20Racial%20Equity%20Report%20final.pdf>.

<sup>6</sup> *Id.*

<sup>7</sup> See 2022 State of Child Welfare in PA report, Pennsylvania Partnerships for Children at pages 12-13, <https://online.flippingbook.com/view/1067488899/12/>. See also Sarah A. Font, Lawrence M. Berger, and Kristen S. Slack, *Examining Racial Disproportionality in Child Protective Services Case Decisions*, *Child Youth Serv. Rev.* 2012 Nov 1; 34(11): 2188-2200, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3439815/>.

<sup>8</sup> See EDUCATION LAW CENTER & PA. PARTNERSHIPS FOR CHILDREN, SUPPORTING SUCCESS FOR PENNSYLVANIA'S STUDENTS IN FOSTER CARE: DATA, OUTCOMES, AND STORIES FROM THE FIELD 4-11 (2025) [hereinafter “Foster Care Supporting Success Report”], <https://www.elc-pa.org/wp-content/uploads/2025/05/Supporting-Success-for-Pennsylvanias-Students-in-Foster-Care.pdf>.

Foster Care Supporting Success Report, *supra* note 5, at 3.

<sup>9</sup> *Id.* at 3..

<sup>10</sup> National Working Group on Foster Care and Education, *Fostering Success in Education: National Factsheet on Educational Outcomes of Children in Foster Care* 4 (Jan. 2022), <https://static1.squarespace.com/static/63dcf65b8d0c56709027332e/t/65206d213728bb028bee2ee8/1696623910191/Education%2BOutcomes%2Bfinal-combined.pdf> *Fostering Success in Education Factsheet*, *supra* note 2, at 21; Thomas R.

Wolanin, Institute for Higher Education Policy, *Higher Education Opportunities for Foster Youth: A Primer for Policymakers* (2005), [http://ihep.org/wp-content/uploads/2014/05/uploads\\_docs\\_pubs\\_opportunitiesfosteryouth.pdf](http://ihep.org/wp-content/uploads/2014/05/uploads_docs_pubs_opportunitiesfosteryouth.pdf); Washington State Institute for Public Policy, *Foster Care to College Partnership: Evaluation of Education Outcomes for Foster Youth*, (Dec. 2009), <http://www.wsipp.wa.gov/rptfiles/09-12-3901.pdf>; Robert Balfanz, Kurt Spiridakis, Ruth Neild, & Nettie Legters, *High-Poverty Secondary Schools and the Juvenile Justice System: How Neither Helps the Other and How That Could Change*, *New Directions for Youth Development*, Autumn 2003, 71-89, [https://www.researchgate.net/publication/8993870\\_High-poverty\\_secondary\\_schools\\_and\\_the\\_juvenile\\_justice\\_system\\_How\\_neither\\_helps\\_the\\_other\\_and\\_how\\_that\\_could\\_change](https://www.researchgate.net/publication/8993870_High-poverty_secondary_schools_and_the_juvenile_justice_system_How_neither_helps_the_other_and_how_that_could_change).

<sup>11</sup> Hayley Pierce, Melissa S. Jones, & Benjamin G. Gibbs, *Early Adverse Childhood Experiences and Exclusionary Discipline in High School*, *Soc. Sci. Rsch.*, Jan. 2022, <https://pubmed.ncbi.nlm.nih.gov/34823667>.

<sup>12</sup> *Every Student Succeeds Act of 2015*, 20 U.S.C. § 6311. For more information regarding ESSA, consult the federal guidance, see U.S. DEP'T OF EDUC. & U.S. DEP'T OF HEALTH & HUM. SERVS., NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE 16 (2024), <https://www.ed.gov/media/document/non-regulatory-guidance-ensuring-educational-stability-and-success-students-foster-care-november-15-2024-108448.pdf>, or review a summary of the provisions of the Guidance, see Legal Center for Foster Care & Education, *Highlights of Joint Federal Guidance to Ensure School Success for Students in Foster Care Under the ESSA* (2024), <https://static1.squarespace.com/static/63dcf65b8d0c56709027332e/t/6753a1ee05ec3337765e5f97/1733534190577/Joint-Federal-Guidance-Highlights.pdf>.

<sup>13</sup> NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 16.

<sup>14</sup> NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 16.

<sup>15</sup> NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 16.

<sup>16</sup> 20 U.S.C. § 6311.

<sup>17</sup> Pa. Dep't of Educ., *Penn\*Link: Foster Care Students Educational Placement* (May 19, 2023), <https://www.elc-pa.org/wp-content/uploads/2023/05/PA-Dept.-of-Education-Penn-Link-Re-Foster-Care-Students-Educational-Placement.pdf>

<sup>18</sup> See 24 P.S. § 13-1306.

<sup>19</sup> NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 17.

<sup>20</sup> NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 17.

<sup>21</sup> PA Foster Care Bulletin, Ctr. for Schools and Communities (Oct. 10, 2024) (on file with author).

<sup>22</sup> See Pa. R.J.C.P. 1147 (explaining court's authority to appoint Educational Decision Maker).

<sup>23</sup> NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 19.

<sup>24</sup> PA Foster Care Bulletin, Ctr. for Schools and Communities (Oct. 10, 2024) (on file with author).

<sup>25</sup> NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE *supra* note 12, at 17.

<sup>26</sup> Pa. Dep't of Educ. & Pa. Dep't of Human Services, *Dear Colleague ESSA Supporting Students in Foster Care* 3 (Nov. 29, 2016), <https://www.pafostercare.org/wp-content/uploads/2023/11/ESSA-Supporting-Students-In-Foster-Care.pdf>.

<sup>27</sup> *Id.* 2016), <https://www.pafostercare.org/wp-content/uploads/2023/11/ESSA-Supporting-Students-In-Foster-Care.pdf>.

<sup>28</sup> *Dear Colleague ESSA Supporting Students in Foster Care*, *supra* note 26, at 3.

<sup>29</sup> 20 U.S.C. § 6312; see also NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 20.

<sup>30</sup> NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 18.

<sup>31</sup> DEP'T OF HEALTH & HUM. SERVS., CHILD WELFARE POLICY MANUAL, § 8.3B.1 (accessed June 25, 2025), <http://cwpm.acf.gov/citations/title-iv-e/title-iv-e-foster-care-maintenance-payments-program/title-iv-e-foster-care-23> (“[T]ransportation associated with the child's attendance at his/her school of origin is an allowable administrative cost under title IV-E because such transportation is related to case management and therefore necessary for the proper and efficient administration of the title IV-E plan.”); see also 45 C.F.R. § 1356.60(c)(2).

<sup>32</sup> *Dear Colleague ESSA Supporting Students in Foster Care*, *supra* note 26.

<sup>33</sup> Annual LEA Survey for 2023-2024 School Year, Ctr. for Schools and Communities (Feb. 24, 2025) (on file with author).

<sup>34</sup> NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 26.

<sup>35</sup> See 24 Pa. Stat. § 13-1306(a) (“The board of school directors of any school district in which there is located any orphan asylum, home for the friendless, children's home, or other institution for the care or training of orphans or other children, shall permit any children who are inmates of such homes, but not legal residents in such district, to attend the public schools in said district ...”).

<sup>36</sup> Children's Rights, Inc. & Education Law Center, *Unsafe and Uneducated: Indifference to Dangers in Pennsylvania's Residential Child Welfare Facilities* 22 (2018), <https://www.elc-pa.org/wp->

[content/uploads/2018/12/2018\\_Pennsylvania-Residential-Facilities\\_Childrens-Rights\\_Education-Law-Center.pdf](#); see also Foster Care Supporting Success Report, *supra* note 8.

<sup>37</sup> See, e.g., Educational Success and Truancy Prevention Workgroup, *2013 Report to the Pennsylvania Roundtable*, 5-6 (2013) (reporting that only 2.4% of respondents indicated that children attending on-grounds schools “always” received educational services and opportunities equal to that provided in the local public schools).

<sup>38</sup> Pa.R.J.C.P. 1148 (C). See Office of Children and Families in the Courts Administrative Office of Pennsylvania Courts, *Pennsylvania Dependency Benchbook* § 13.6.13 (2019), <http://ocfcpacourts.us/wp-content/uploads/2020/05/2019-Pennsylvania-Dependency-Benchbook-3rd-Edition-Interactive-002427.pdf> (“If attending a residential facility’s on-grounds school, the court should ascertain whether the credits a child earns at a residential placement are transferable toward graduation at a public school.”); *id.* at § 20.7.1, Factors to Consider Prior to Placement (“These reasons should be placed on the record. If public school is not in the youth’s best interest and will attend an on-grounds school, will the youth receive academic credits that transfer to the youth’s home school upon discharge and will the youth be able to advance to the next grade level? Will the youth’s instruction come from teachers or a computer?”).

<sup>39</sup> 24 Pa. Stat. Ann. § 13-1331.1(a)(1).

<sup>40</sup> *Id.* § 13-1331.1(b)(2).

<sup>41</sup> *Id.* § 13-1331.1(a)(4)-(5).

<sup>42</sup> *Id.* § 13-1331.1(b)(4).

<sup>43</sup> *Id.* § 13-1331.1(a)(4); see also NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 34 (underscoring that schools should ensure outstanding fines and fees, such as library fines, do not unduly burden students in foster care).

<sup>44</sup> *Early Adverse Childhood Experiences and Exclusionary Discipline in High School*, *supra* note 6.

<sup>45</sup> Foster Care Supporting Success Report, *supra* note 9, at 11.

<sup>46</sup> See NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 32; Foster Care Supporting Success Report, *supra* note 9, at 12.

<sup>47</sup> Foster Care Supporting Success Report, *supra* note 9, at 11. Brianne Kothari, Bethany Godlewski, Bowen McBeath, Marjorie McGee, Jeff Waid, Shannon Lipscomb, & Lew Bank, *A Longitudinal Analysis of School Discipline Events Among Youth in Foster Care*, 93 Child. & Youth Servs. R., 117, 117 (2018), <https://doi.org/10.1016/j.Childyouth.2018.07.017>.

<sup>48</sup> See RACIAL EQUITY REPORT 2021, *supra* note 5.

<sup>49</sup> Foster Care Supporting Success Report, *supra* note 9, at 11; MELANIE LEUNG-GAGNÉ, ET AL, LEARNING POLICY INSTITUTE, PUSHED OUT: TRENDS AND DISPARITIES IN OUT-OF SCHOOL SUSPENSION 25 (2022), [https://learningpolicyinstitute.org/media/3885/download?inline&file=CRDC\\_School\\_Suspension\\_REPORT.pdf](https://learningpolicyinstitute.org/media/3885/download?inline&file=CRDC_School_Suspension_REPORT.pdf)

<sup>50</sup> NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 32.

<sup>51</sup> Foster Care Supporting Success Report, *supra* note 9, at 15.

<sup>52</sup> NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 34.

<sup>53</sup> 24 Pa. Stat. Ann. § 13-1331.1(a)(4).

<sup>54</sup> See generally Thalia González & Paige Joki, *Reproducing Inequality: Racial Capitalism and the Cost of Public Education*, 65 B.C. L. REV. 318 (2024) (critiquing the racialized effects that fines and fees in the K-12 public education system have on Black students).

<sup>55</sup> Farnsworth, E. M., Cordle, M., Kromminga, K., Shaver, E. L., Szydlo, T., & Frederick, J. (2022). *Protecting the Educational Rights of Students in Foster Care: Legal Considerations for Educational Professionals*, CHILD. AND YOUTH SERVS. REV., 141, 106585. <https://doi.org/10.1016/j.childyouth.2022.106585>.

<sup>56</sup> Foster Care Supporting Success Report, *supra* note 9, at 5.

<sup>57</sup> Letter from Office of Special Education and Rehabilitative Services to State Director of Special Education (Nov. 10, 2022), <https://sites.ed.gov/idea/files/Letter-to-State-Directors-of-Special-Education-on-Ensuring-a-High-Quality-Education-for-Highly-Mobile-Children-11-10-2022.pdf>.

<sup>58</sup> Letter from Office of Special Education and Rehabilitative Services to State Director of Special Education (Nov. 10, 2022), <https://sites.ed.gov/idea/files/Letter-to-State-Directors-of-Special-Education-on-Ensuring-a-High-Quality-Education-for-Highly-Mobile-Children-11-10-2022.pdf>.

<sup>59</sup> Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794; 28 CFR § 35.108 (definition of disability)

<sup>60</sup> Pa. Dep’t of Educ., *Basic Education Circular: Surrogate Parents*, <https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-be/cs/us-code/surrogate-parents.html> (last reviewed Feb. 2019).

<sup>61</sup> See 20 U.S.C. §1415.

<sup>62</sup> NON-REGULATORY GUIDANCE: ENSURING EDUCATIONAL STABILITY AND SUCCESS FOR STUDENTS IN FOSTER CARE, *supra* note 12, at 34.

<sup>63</sup> See U.S. Dep’t of Educ. Office of Special Educ. & Rehabilitative Services, *OSEP DEAR COLLEAGUE LETTER on Education for Highly Mobile Children* (July 19, 2013),

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<https://sites.ed.gov/idea/idea-files/osep-dear-colleague-letter-on-education-for-highly-mobile-children/>.

<sup>64</sup> See 20 U.S.C. §1415(k)(1)(E)(ii).

<sup>65</sup> See, e.g., Pa. R.J.C.P. 1142 (e)(4) (requiring court to make findings and issue orders addressing educational needs of child at shelter care hearing).

<sup>66</sup> Pa. R.J.C.P. 1147.

<sup>67</sup> *Id.*

<sup>68</sup> Fostering Connections to Success and Increasing Adoptions Act, 42 U.S.C. § 675(1)(G).

<sup>69</sup> Specifically, Title IV-E of the Social Security Act requires states to develop case plans for children in foster care and that the case plans include, among other things, the names of the child's education providers, the child's grade level performance, the child's school records, and any other relevant education information concerning the child as determined by the child welfare agency. 42 U.S.C. §§ 671(a)(16), 675(1)(C).

<sup>70</sup> 24 Pa. Stat. 26-2601-K et. seq.

<sup>71</sup> Family First Prevention Services Act, Pub. L. No.115–123, amending in part 42 U.S.C. § 671 (authorizing new Title IV-E funding).