

MODEL SCHOOL POLICIES AND PRACTICES TO SUPPORT STUDENTS IN FOSTER CARE AND IN THE JUVENILE JUSTICE SYSTEM

School boards and administrators can improve the educational outcomes of children in foster care and youth in the juvenile justice system by making key changes to their policies and practices to support student success. Here are some strategies to consider.

ADDRESSING RACIAL BIAS IN REFERRAL AND TREATMENT OF CHILDREN AND YOUTH

For decades, racial disparities in the referral of children and youth to the child welfare system have been studied and well documented – particularly in Pennsylvania, where Black children represent just 13% of the total population but make up 35% of the children and youth in foster care.¹ Similar disparities continue to persist in referrals to the juvenile justice system.² These disparities reflect inherent biases and deeply rooted anti-Black racism within both systems. One report found that even when risk factors are identical for both Black families and white families, a Black family is more likely to have their child removed and less likely to receive meaningful supports in the home.³ In short, personal and implicit biases directly impact decision-making, which results in disparate treatment and outcomes for Black children and reflects deeply entrenched systemic racism and discrimination.⁴ These disparities are particularly acute for Black children due to systemic anti-Black racism,⁵ which is defined by the Center for the Study of Social Policy as “any attitude, behavior, practice or policy that explicitly or implicitly reflects that Black people are inferior to another racial group.”⁶

With this in mind, it is imperative that any model policy or strategy confronts racial bias head-on – recognizing that the impact of being removed from home has negative collateral consequences, including removal from schools, segregation away from family and friends, and time in systems that have been well-documented to be harmful and particularly harsh in their treatment of Black children.⁷

SCHOOL STABILITY

State and federal law requires that school districts ensure they have policies and protocols in place to support school stability for children in foster care and in the juvenile justice system. Districts should consider tracking the number of students who remained in their school when they experienced a change in living placement and report on what percentage of children the district supported to stay in the same school. School districts should also track the reasons that students changed schools. Most importantly, schools need to be mindful that school stability is sometimes the only stability in a young person’s life and must be prioritized and maintained whenever possible.

ENROLLMENT AND WELCOMING YOUTH IN TRANSITION

In addition to ensuring immediate enrollment in a new school, children in foster care and in the juvenile justice system benefit from the opportunity to have a smooth transition into a new school, including touring the campus prior to starting school.

Several school districts also have developed mentoring programs where children in foster care are assigned to a student or teacher mentor. Mentorship programs have been shown to support students to be successful and increase graduation rates. Talk to children about their interests and goals and programs the new school offers. Children and youth who are system-involved should also be supported to participate in sports teams and extracurricular activities, even if the deadline for enrolling in these programs has passed.

Students returning from a juvenile justice placement cannot be automatically enrolled into alternative schools or arbitrarily prevented from accessing their community classrooms based on their status as a student returning from placement. Like other students referred to “alternative education for disruptive youth” programs, students and their families have a right to challenge such referrals prior to placement. In addition, special protections are afforded to students with disabilities and multilingual learners (referred to as “English learners”). See ELC’s fact sheets on [Alternative Education for Students with Disabilities](#) and [Alternative Education for Multilingual Learners](#).

ENGAGING IN EXTRACURRICULARS

Connecting students who are highly mobile to an activity or club that interests them increases their engagement in and attachment to school. Under Act 1, school entities must allow all students who experience education instability and are in foster care, experiencing homelessness, or impacted by the juvenile justice system to participate in any school-sponsored or extracurricular activity for which the student meets placement and qualification requirements, even if the deadline for participating in the activity has passed.⁸

ATTENDANCE

Schools must ensure that their policies accurately reflect the fact that students in foster care and in the juvenile justice system must be excused for any conferences, appointments, meetings, visitations, or hearing dates relating to child welfare cases or juvenile justice matters, including court appearances, meetings, and sibling visitation. Corrections to attendance records should be made in writing.

ACT 1: EDUCATION RECORDS, CREDIT ASSESSMENTS, AND GRADUATION PLANNING

Many children in foster care and in the juvenile justice system have been in several different schools, and some have attended an “on-grounds” school while in a residential placement. Due to school changes, these students often struggle to locate prior records or know how many credits they have earned towards graduation and what courses they need to graduate. Under Act 1, schools are obligated to support these students to graduate.⁹

First, request and obtain all education records from prior school placements. Your careful review of these records will identify all credits earned, including partial credit for work completed while the child was in a short-term placement. Notably, many courses at on-grounds schools have names that sound like electives when in fact they are core subjects. All credits granted by a public school must be accepted upon the transfer of the student.¹⁰ Districts should accept credits from all licensed private academic schools, residential schools, cyber schools, and day treatment programs. School entities are also obligated to adopt policies to assess and award partial credits for student work, which must be counted towards graduation.¹¹

Second, develop a graduation plan right away for the student so that they are clear about what credits, courses, and projects they need to graduate. Consider whether the student qualifies for a waiver of graduation requirements, such as local course-specific mandates or other exemptions based on state law. The Pennsylvania School Code recognizes the authority of chief school administrators (e.g., superintendents) to waive state high school graduation requirements on a case-by-case basis “for good cause.” Such waivers may be granted to accommodate students who experience “extenuating circumstances,” expressly including “frequent transfers in schools” or a failure to complete a senior project.¹²

To learn more about Act 1, see ELC’s fact sheet on [Act 1: Supporting Graduation & Equal Access for Students Experiencing Homelessness, in Foster Care, or in the Juvenile Justice System](#). To learn more about how other jurisdictions have awarded full or partial credits, go to: https://kids-alliance.org/wp-content/uploads/2013/12/PCM_WEB_April2014.pdf.

REMEDIAL HELP

Many children involved in the juvenile justice or child welfare systems have been failed academically, causing youth to struggle academically. This is due in part to the disparate treatment of children of color, disruptions in their education, limited access to quality education and necessary supports while system-involved, a higher likelihood of developmental delays, and the trauma caused by abuse and neglect.

It is well documented that remedial programs can make a dramatic difference, particularly one-to-one tutoring, to improve academic success.¹³ Many school districts and organizations across the country have developed remedial support programs to better meet the needs of students in foster care. For example, [Treehouse](#) provides children in Washington state with academic and other essential supports they need to graduate from high school. [Kids in School Rule](#) in Cincinnati, Ohio, provides targeted remedial help to students in foster care. To learn more about what schools can do to support students in foster care, go to the [Legal Center for Foster Care and Education](#).

SCHOOL DISCIPLINE

The impact of a child’s past experience and trauma must be considered when determining whether to impose any exclusionary disciplinary measure or change in school placement. It is important to recognize that in most cases, an expulsion will result in the termination of a child’s foster care living placement and prolonged time in foster care or reentry into the

juvenile justice system. Talk to the child’s caseworker, foster parent, etc., about the consequences of any proposed disciplinary action. A child should not be subject to an exclusion or change in school placement if the child’s foster care living placement will be impacted.

Further, students with disabilities are entitled to a manifestation determination review to determine whether the student’s behavior was caused by or related to the student’s disability or the school’s failure to follow the student’s IEP. In some cases, the outcome of a manifestation determination review could be that the student is not excluded from school, or they may become eligible for additional supports and services, including a revised functional behavioral assessment and positive behavior support plan. For students involved in the juvenile justice system, particularly for school-based offenses, the manifestation determination outcome can have an impact on whether charges move forward, so it is a recommended practice to keep a child’s attorney informed of school-based decisions.

ELIMINATE FINES AND FEES

Too often, schools subject students who are system-involved to fines and fees that are not just unaffordable but can result in deeper and harsher system (court) involvement if unpaid. Under Act 1, a school entity must waive fees, fines, and costs which would otherwise present barriers to participation. To reduce these barriers, schools must take actions such as refraining from imposing fines or other penalties for students who are unable to obtain a uniform and “waiving all fees that would otherwise be assessed against the student.”¹⁴

TRANSITION AND POSTSECONDARY

Students in foster care and in the juvenile justice system should receive individual college counseling, including assistance with applying to postsecondary opportunities. Older youth, including those who age out of the system at age 18, often have no one to help them navigate the complicated college application and financial aid process.

In Pennsylvania, the Fostering Independence Tuition Waiver Program (<https://www.education.pa.gov/Postsecondary-Adult/CollegeCareer/FosteringIndependence/Pages/default.aspx>) provides a waiver for tuition and mandatory fees charged by most postsecondary institutions for eligible youth who are or were in foster care. To learn more or determine if a student is eligible, visit the PA Higher Education Assistance Agency website here: <http://www.pheaa.org/funding-opportunities/other-educational-aid/foster-education.shtml>.

¹ Pa. Dep’t of Human Services, *Racial Equity Report 2021: Leading the Fight for Justice, Equity, and Opportunity for All People 2* (2021) [hereinafter Racial Justice Report], <https://www.dhs.pa.gov/about/Documents/2021%20DHS%20Racial%20Equity%20Report%20final.pdf> (“Black children represent 35 percent of Pennsylvania’s foster care population, despite accounting for just 13 percent of children in Pennsylvania. Two-thirds of youth referred to DHS’ secure youth treatment centers are Black. This disproportionality is the result of centuries of systemic racism.”).

² Pa. Juvenile Justice Task Force, *Report & Recommendations 26-28* (June 2021) [hereinafter Juvenile Justice Task Force Report], https://www.senatorbaker.com/wp-content/uploads/sites/28/2021/06/PA-Juvenile-Justice-Task-Force-Report-and-Recommendations_FINAL.pdf (“Black Non-Hispanic youth make up 14 percent of the statewide youth population and 38 percent of written allegations coming into the system. Yet they represent 62 percent of youth held in detention prior to adjudication, 47 percent of youth sent to residential placement, 62 percent of youth charged as adults through statutory exclusion (i.e., directly filed in adult court), and 55 percent of youth charged in adult court at the discretion of a juvenile court judge. . . . [and those disparities persist] even when youth are charged with the same offense. For misdemeanor drug possession—the second-most common offense leading to the removal of youth from their homes—Black Non-Hispanic males make up 16 percent of written allegations but 33 percent of residential placements for that charge.”).

³ 2020 State of Child Welfare report by Pennsylvania Partnerships for Children <https://online.flippingbook.com/view/324778/>.

⁴ Children of color, particularly Black children, are in these systems the longest due to systemic racism and individual anti-Black racial bias. See Racial Justice Report, *supra* note 1, at 13 (“Once Black children become known to the child welfare system, they are more likely to enter foster care and stay in foster care longer than White children. Currently, 35 percent of children in foster care are Black, and Black children represent 42 percent of children who have been in foster care for two years or more.”); *id.* at 15 (“[Y]outh of color, especially boys, are more likely to be removed from home even for identical offenses, than other youth. Youth of color are also more likely to be kept under court supervision longer and prosecuted more often as adults than other youth.”); see also Juvenile Justice Task Force Report, *supra* note 2.

⁵ Racial Justice Report, *supra* note 1 (using data to show how systemic racism, especially towards Black individuals “has prevented equitable access to quality education, housing, nutritious food, employment, medical care, social service programs, and the delivery of justice”).

⁶ Center for the Study of Social Policy, *Using an Anti-Racist Intersectional Frame at CSSP*, (Nov. 20, 2019), <https://cssp.org/wp-content/uploads/2019/09/Antiracist-Frame-11.20.19.pdf>.

⁷ *Id.*

⁸ Act 1 of 2022, 24 P.S. § 13-1331.1(a)(5); *Assisting Students Experiencing Education Instability*, Basic Education Circular, PA. DEP’T OF EDUC. (Aug. 1, 2022), available at <https://www.education.pa.gov/Policy-Funding/BECS/Purdons/Pages/Act1of2022AssistingStudentsExperiencingEducationInstability--.aspx>; PA. DEP’T OF EDUC., “Dear Colleague” letter: Act 1 of 2022: Supporting Graduation For Students Experiencing Education Instability, <https://www.education.pa.gov/K-12/Pages/Act1of2022.aspx> (last visited August 24, 2022).

⁹ 24 P.S. § 13-1331.1.

¹⁰ 22 Pa. Code § 4.74.

¹¹ 24 § 13-1331.1(a)(2).

¹² 22 Pa. Code § 4.51-d.

¹³ Olivia Erickson, *Foster Care and Education: Exploring the Success of Interventions Aimed to Improve Academic Achievement of Foster Children*, St. Catherine University, 2018, available at https://sophia.stkate.edu/cgi/viewcontent.cgi?article=1842&context=msw_papers.

¹⁴ 24 § 13-1331.1(a)(3) and (4).