

# CHILD PROTECTION BEST PRACTICES BULLETIN

*Innovative Strategies to Achieve Safety, Permanence, and Well-Being*

## BEST PRACTICE BULLETINS

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## EDUCATION ADVOCACY

### WHAT IS *Education Advocacy*?

Education is critical to every child's well-being and future success, especially for children and young people in the foster care system. Foster youth however, face significant challenges achieving educational success. Their exposure and experiences before and during foster care are often traumatic: they have experienced abuse and/or neglect; they have been separated from their families; and many have experienced multiple placements and often multiple schools.

Many of our foster youth have emotional and behavioral issues, developmental and cognitive limitations, and high rates of absenteeism and disciplinary actions. These in turn contribute to poor academic performance, grade level retention, and high dropout rates. In addition, the number of foster youth with special education needs is disproportionately higher than the general population.

Compound all of this with the complexities of navigating the general education and special education systems, not to mention coordinating those systems with the child welfare system, and it is no wonder that child welfare professionals and advocates are taking more active and engaged roles as education advocates. While this engagement is critical for all children in foster care, it is especially important when the children are (or should be) in special education, and when older youth are preparing to transition to adulthood.

### WHAT IS *Current Practice*?

- **Educational Stability:** Predisposition studies must include assessment of whether the child's placement is appropriate in terms of educational setting and proximity of the child to the school the child was enrolled in at the time of placement. The Department is required to make plans for travel for the child to remain in the same school. Also, the child may qualify for additional services, such as transportation, under the McKinney-Vento Act, a law that helps homeless children stay in the same school.
- **Special Education Services:** All students in the public education system are entitled to an assessment if there is any indication of special education needs. (This is required by the federal Individuals with Disabilities Education Act, or IDEA). Children with disabilities are entitled to an appropriate public education and any special education services and accommodations they need to make educational progress. Children in special education are required to have an Individualized Education Program (IEP) that is developed by a team and sets forth educational goals and services that will be provided to the child. IEP teams meet at least once a year to develop a program for the child.

- Educational Transition Planning: Every child in public education in New Mexico is required to have a Next Step Plan (NSP), developed by a team beginning when the youth is in 8th grade or turns 14 years of age. The NSP ensures that children are informed about course options and post- high school opportunities.

Caseworkers, GALs, attorneys for older youth, CASAs, and others frequently attend school meetings, as do biological and foster parents. However, there is currently no consistent practice in terms of the involvement of these stakeholders, nor is there consistent practice in coordinating IEPs, NSPs with youths' treatment plans.

## What is *Best Practice*?

Best practice involves judicial oversight and the involvement of all stakeholders in the child welfare and school systems working together as education advocates to meet the child's educational needs. Critical elements include:

- Multi-level, multi-system coordination of planning throughout the life of the case, especially when the youth is participating in special education and/or transitioning to adulthood, with active involvement of the young person when developmentally appropriate
- Promoting educational stability for children when they are removed from their homes and whenever their living placement changes.
- An educational decision-maker for children who may qualify for special education services under the IDEA. It is critical that the Judge designate an educational decision-maker, i.e., the individual with legal authority to make education decisions for a child. When the plan for the child is reunification, it may be most appropriate for the parent to continue to make education decisions for the child even though the child is in State custody. If the parent is not an appropriate educational decision-maker, the court should determine whether the foster parent is willing to act as a parent under IDEA. If both the parent(s) and foster parent(s) are unable or unwilling to make education decisions for the child, a surrogate parent must appointed by the school or the Court to act as an educational decision-maker. The educational decision-maker should not be the GAL or the youth's attorney; the caseworker or anyone else from CYFD; a person who is an employee of the school district or the Public Education Department; or a person who is an employee of an agency involved in the education or care of the child.
- Advocates insisting that children receive the services they need and to which they are entitled. All stakeholders can be educational advocates for the child, GALs or attorneys representing older youth (even though they are not representing the youth regarding educational services), caseworkers, CASAs, teachers, and others. Education advocates should be actively tracking the young person's education to ensure that the child has the supports needed to be successful in school.
- Securing educational records in accordance with federal and state law - these records must become a part of the CYFD case file and the child's Life Book.
- Training that addresses the need for communication and collaboration between the child welfare and education systems. Education must be prioritized in the child welfare system, and the special needs of foster youth must be recognized in the education sector.
- Information more freely shared between school and child welfare personnel - teachers and other school personnel need to know when a student is in foster care, and how the child's circumstances might affect his/her educational performance. Caseworkers and others need to know how the child is doing in school.

## What is *my* ROLE?

- As a JUDGE, you would issue an order designating an educational decision-maker for the child. You would inquire about the child's school placement, educational services and progress. You would also inquire about the Individualized Education Program (IEP) and/or Next Step Plan (NSP), and the involvement of child welfare staff in educational planning. You would require that the child welfare staff participate in educational planning and make sure the education plan and treatment plan are coordinated. You would inquire about barriers to educational success and seek solutions.
- As a CASEWORKER, you would get the child's educational records. You would ensure that, if necessary, an appropriate evaluation was conducted to identify any need for special education. You would make sure that the treatment plan addresses the educational needs of the child and that all plans for the child are coordinated. You would attend education meetings. You would explain the young person's educational rights to the parent and the foster parent, and help them understand the IEP and NSP process. You would make sure foster parents and others know what is expected of them in regards to educational decision-making. You would make sure the school knows who is making education decisions. You would request that the school inform you of all meetings and copy you on all correspondence.
- As a CHILDREN'S COURT ATTORNEY, you would review recommendations from caseworkers about education issues, ensure that the recommendations are based on the individualized needs of the child, and present the recommendations in an informed manner to the Court.
- As a RESPONDENT ATTORNEY, you would advocate for parent involvement in educational planning for their children, and for information and training to assist them as they navigate the educational system.
- YOUTH ATTORNEY or GAL, you would seek a court order delineating the educational decision-maker for the child. You would track the educational progress of the child and seek information and assistance for the educational decision-maker as needed to ensure that the child's educational needs are met.
- As a CASA VOLUNTEER, you would attend education meetings and advocate for the best interests of the child and address educational needs in your recommendations to the Court.
- As a CRB MEMBER, you would inquire specifically about the child's educational placement, what services are being provided and whether the child is successful in school. You would inquire about the involvement of child welfare personnel in developing and monitoring educational services. You would document your observations and recommendations in the CRB report.
- As a PARENT, you would be the education decision-maker, or help designate an education decision-maker for your child. You would attend all IEP meetings and help ensure that your child is receiving appropriate educational assessments and service.
- As a FOSTER PARENT, you would know who the designated educational decision-maker is. You would work with the caseworker and the schools to ensure that the child is receiving appropriate educational services. You would attend all IEP meetings.
- As a YOUTH, you would tell the judge who you want to be involved in your educational planning.

**MEETING THE EDUCATIONAL NEEDS OF CHILDREN IN FOSTER CARE**  
**A CHECKLIST FOR JUDGES AND EDUCATION ADVOCATES**

1. Is the child attending school?
2. How is the child faring in school?
3. How does the child's placement impact the child's school continuity and stability?
4. Are school records in the child's case file? Are they complete and up-to-date?
5. What are the medical, developmental, and emotional needs that impact the child's educational performance?
6. Who is the child's educational decision-maker?
7. Who are the education advocates for the child? Are they actively participating?
8. Does the child like school? Why or why not?
9. What is the child's level of reading, writing, and mathematics?
10. Has the child repeated a grade? Why?
11. Has the child taken summer school classes? Why?
12. What are the child's results on any standardized tests that have been taken? Has the youth passed the high school competency exam?
13. Does the child require general education support services?
14. Does the child require evaluation for gifted educational services?
15. Does the child require special education evaluation or services?
16. What is the child's special education eligibility? Is the child receiving services aimed to address his/her disabilities?
17. Does the child have an Individualized Education Program (IEP)?
18. Who is a part of the IEP team? When was the last time the IEP team met?
19. Is the child engaged in extra-curricular activities?
20. If preschool-aged, is the child enrolled in an early childhood education program?

21. If 14 or older, what is the Transitional Living Plan to address the youth's educational and vocational needs and goals?
22. If 14 or older, does the child have a Next Step Plan?
23. If 14 or older and in special education, what is the pathway to diploma plan for the child? How was this pathway determined? Is it the best choice?
24. Overall, are education plans and child-welfare plans coordinated?

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