

AB 490



CALIFORNIA FOSTER YOUTH EDUCATION TASK FORCE

INTRODUCTION

Assembly Bill 490 (2003) created new rights and duties related to the education of dependents and wards in foster care. Some of these rights and duties have been expanded by later laws, including AB 81 (2009), AB 12 (2010), SB 1353 (2010), AB 1933 (2010), and the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351). Many of the obligations placed on local educational agencies by these laws also apply to charter schools participating in a special education local plan area. *EC § 48859(c).*

Guiding Principles

Educators, social workers, probation officers, caretakers, advocates, and juvenile courts must work together to serve the educational needs of students in foster care. *EC § 48850(a)(1).*

Students in foster care must have access to the same academic resources, services, and extracurricular and enrichment activities that are available to all students. All educational and school placement decisions must be based on the child's best interests and consider, among other factors, educational stability and the least restrictive educational setting necessary to achieve academic progress.

EC §§ 48850(a)(1), 48853(g); WIC §§ 361(a), 726(b).

Educational matters must be considered at every court hearing. Social workers and probation officers have many education-related reporting requirements.

See CRC 5.651 and 5.668(c) for a list of requirements.

SCHOOL STABILITY

Role of the Placing Agency

In making out-of-home placement decisions, the placing agency must promote educational stability by considering a placement's proximity to the child's "school of origin" (usually her/his current school) and attendance area, the number of previous school transfers, and the school matriculation schedule, among other factors. *WIC § 16501.1(c).* The child's case plan must include specific information about her/his educational stability and assurances that the placing agency has taken steps to ensure such stability.

See WIC §§ 16010(a), 16501.1(f)(8).

Within 24 hours of determining that a proposed placement or placement change would result in a school change, the social

worker or probation officer must notify the court, the child's attorney, and the educational representative or surrogate parent. *CRC 5.651(e)(1)(A).*

If a child who is changing schools has an IEP, the social worker or probation officer must give written notice of the impending change to the current local educational agency (LEA) and the receiving Special Education Local Plan Area at least 10 days in advance. *CRC 5.651(e)(1)(B).*

Role of the Court

The child's attorney must discuss any proposed school change with the child and the child's educational rights-holder, as appropriate, and may request a hearing on the proposed change. The educational rights-holder also may request a hearing.

CRC 5.651(e)(2).

If there is a hearing request, the social worker or probation officer must provide a report on the proposed change within two court days, and the hearing must be held within seven calendar days. Pending the hearing, the child has a right to remain in her/his current school. *CRC 5.651(e)(2)-(4).*

Role of the School District

If a foster child's residence changes, the school district must let the child remain in her/his "school of origin" (defined at *EC § 48853.5(e)*) for as long as the court has jurisdiction over the child's placement. (If the court's jurisdiction ends during an academic year, the right to remain in the school of origin lasts through the end of that academic year.) Moreover, when transitioning between grade levels, the child has the right to continue in her/his school district of origin or, if applicable, to enroll in the same middle or high school district as her/his classmates, following established feeder patterns. After consulting with a child and her/his educational rights-holder and providing a written explanation, a district's foster youth liaison may recommend that the school-of-origin right be waived. If a dispute arises, the child has the right to remain in the school of origin until it is resolved. *EC § 48853.5(d).*

School District Liaison

Each school district and county office of education must designate an educational liaison for foster youth, whose duties are:

- To ensure proper educational placement, school enrollment, and checkout from school.

- To assist with the transfer of grades, credits, and records when there is a school change. *EC § 48853.5(b), (d)(7)(C).*

Local Public School Preferred

Students in foster care must attend programs operated by the LEA unless the child remains in the school of origin, the child has an IEP requiring a different educational placement, or the educational rights-holder determines it is in the child's best interest to attend a different educational program. Before placing a child in a juvenile court school, community school, or other alternative school setting, the educational rights-holder must consider placement in the regular public school. *EC § 48853(a)-(b).*

Immediate Enrollment

If a child changes schools, s/he has a right to be enrolled in the new school immediately, even if there are outstanding fees, fines, textbooks, or other items due to a school or if s/he does not have the clothing or records normally required for enrollment. *EC § 48853.5(d)(7)(B).*

TIMELY TRANSFER OF RECORDS

Placing Agency's Duties

As soon as the social worker or probation officer becomes aware of the need to transfer a child to a new school, s/he must notify the school district of the child's last expected day of attendance and request that the child be transferred out. *EC § 49069.5(c); see WIC § 16501.1(f)(8)(B).* Social workers and probation officers may access the child's school records—without parental consent or a court order—to help with school transfer and enrollment, compile the child's education summary, and conduct case management.

EC § 49076(a)(11).

New School District's Duty

Within two business days of receiving a request for enrollment, the new school's foster youth liaison must contact the last school to obtain all of the child's records. *EC § 48853.5(d)(7)(C).*

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• Old School District's Duties

Within two business days of receiving a transfer request, the current school district must transfer the child out and deliver her/his records to the new school. The records must include a determination of seat time, full or partial credits earned, classes and grades, immunization records, and, if applicable, special education or Section 504 records. *EC § 49069.5(d)-(e)*. All records must be provided regardless of any fees, fines, textbooks, or other items or money owed to the last school. *EC § 48853.5(d)(7)(C)*.

GRADE AND CREDIT PROTECTIONS

A child's grades may not be lowered due to absences caused by a change in placement, a court appearance, or a court-ordered activity. *EC § 49069.5(g)-(h)*. In addition, LEAs must award all students credit for full or partial coursework satisfactorily completed at a public school, juvenile court school, or non-public, non-sectarian school or agency. *EC § 48645.5*.

SPORTS AND ACTIVITIES

Students in foster care must have access to the same extracurricular activities and interscholastic sports that are available to all students. If a court or child welfare agency changes a child's residence, s/he immediately is deemed to meet all residency requirements for participation in interscholastic sports and other extracurricular activities. *EC § 48850(a)*.

The California Foster Youth Education Task Force is a coalition of organizations dedicated to improving educational outcomes for foster youth. For more information, please visit our website at www.cfyetf.org or contact Mia Stizzo at mia.stizzo@cfpic.org.

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