
Bulletin



New Law Aims to Give Foster Children School Stability

When children enter foster care, they often leave behind everything familiar, including their school, where they may have cherished friends, favorite teachers, maybe even a counselor or other adult who helped them in the past.

That has changed recently, under a new law that gives foster children the right to remain in their home school, if staying in that school is in their best interest.

Why does it matter?

Research shows that frequent school changes hurt children in foster care. They suffer academically, socially, behaviorally and psychologically when they have to change schools. Research also shows that many children in care already struggle academically when compared to the general student population. They are typically less likely to graduate from high school and attend college and more likely to have lower test scores and need special education services.

That is why it is so important that parents, foster parents, teachers and others who work with children in foster care understand the new rules and take every action they can to ensure the children in their lives enjoy school stability. This increases their chances of succeeding in school.

Advocates for Children of New Jersey is a statewide, non-profit child action and research organization. We have produced this short guide to help people understand the new law and to advocate for school stability for the children in their lives. We can also provide direct help if you are having trouble ensuring that the child in your life is given the right to stay in his home school.

What does the new law require?

The new law, signed by the governor in September 2010, says that the school district where the child went to school before entering foster care is legally responsible for that child's education, even if the child is living in a foster home in another town.

This is called the child's "district of residence" – the place where he is legally entitled to attend school.

That means if a child was living with her parents in New Brunswick, for example, and went to live in a foster home in Piscataway, New Brunswick would still be legally responsible for educating that child. Previously, the law shifted that responsibility to the foster parent's district.

Does every child stay in their current school?

No. The law requires the Division of Youth and Family Services (DYFS) to decide what is in the child's

best interest: to remain in the current school or go to school in the foster parent's district. When making this important decision, DYFS must try to talk to the people involved in the case, including the parents, the child's attorney (law guardian) and the child, when appropriate. They must also talk to people at both school districts (the current one and the foster parent's district). Parents can be kept out of this discussion if there are serious safety concerns.

DYFS has to decide which school the child will attend within five business days of a child's placement in foster care or when the child is moving to a new foster home. While this decision is being made, the child remains in the current school.

If, however, staying in the current school raises serious safety concerns or poses a real immediate harm to the child, DYFS can immediately move the child to the new school. If DYFS does this, the division must notify the child's lawyer and parents.

What does DYFS consider when making this decision?

The law outlines "best interest" factors, including:

- Safety considerations
- Distance of the current school from the foster home
- The child's age and grade
- The child's needs and desires
- How the child is doing in the current school and how connected the child is to that school
- The child's special education programming, if applicable
- The point of time in the school year
- Whether the child is likely to return home and the expected amount of time the child will be in the foster home

Who takes the child to and from school?

DYFS is responsible for providing transportation to the child to and from the foster parent's home until a final decision has been made. Once a final decision is made, DYFS has to immediately notify both school districts. The child's school district (where the parents or guardians lived when the child entered foster care) has to arrange and pay for transportation.

What if I disagree with the decision that DYFS makes?

If DYFS decides the child should move to the resource parent's school, the division has to notify in writing the child's law guardian and legal guardian, explaining why it is in the child's best interest to change schools.

If either the child's law guardian or the parent disagrees with DYFS' decision, they can ask the court to reconsider. They have five days to apply to the court. They must also notify DYFS within that time that they are disputing the decision in court. When this happens, the child stays in the current school until the court makes a decision.

If neither party objects to the child changing schools within five days, the decision is considered final and the child can be moved to the new school.

What if circumstances change while the child is in foster care?

The people involved in the case (parents, law guardians and DYFS) can ask the court to review a child's school placement any time while the child remains in foster care.

If you need more information or help in a case involving school stability for a child in foster care, please call (973) 643-3876 or email advocates@acnj.org.