

# Foster Care & Education



## HOW CAN WE ENSURE EDUCATIONAL SUCCESS FOR DEPENDENT YOUTH IN CONGREGATE CARE?

### Q: How many children live in congregate care settings?

A: Roughly 58,000 children in the United States live in residential placements such as group homes and treatment facilities.

[http://www.acf.hhs.gov/sites/default/files/cb/afcarsreport\\_20.pdf](http://www.acf.hhs.gov/sites/default/files/cb/afcarsreport_20.pdf). Many youth are placed through the child welfare or mental health systems; others are placed directly by their families.

### Q: What barriers to educational success confront youth in residential placements?

A: Youth placed in group homes, mental health facilities, or other residential settings often face daunting educational challenges. It is hard for the child to stay in the same school if the facility is located far from the child's home school. If youth must change schools, often student records are not transferred promptly or the youth does not receive credit for all of the coursework completed while in the facility (particularly if they attended an on-grounds school). On-grounds schools may not be subject to the same standards and requirements as regular public schools and often have limited curricular and extra-curricular offerings. See, e.g., [http://stoneleighfoundation.org/sites/default/files/Moving%20the%20Dial%20Styer%20Final\\_.pdf](http://stoneleighfoundation.org/sites/default/files/Moving%20the%20Dial%20Styer%20Final_.pdf).

Finally, youth in congregate care are more likely to lack a legally authorized adult to make special and general education decisions on their behalf and ensure that their needs are addressed. These youth are less likely to have a parent, foster parent, or kinship provider to check on academic progress, ensure special education needs are met, or participate in school discipline proceedings—making them more likely to fall through the cracks.

### Q: Can youth stay in the same school they were attending when they are placed in congregate care? Can they promptly enroll if a school change is needed?

A: The federal *Fostering Connections to Success and Increasing Adoptions Act* directs child welfare agencies to work with local school districts to ensure that children in the agency's care – which includes many children in congregate care – remain in the same school even if they, initially or at a later time, move to another school district or attendance area. 42 U.S.C. § 675(1)(G)(ii)(I). Depending on the state's definition of "awaiting foster care placement," children in congregate care may also be considered "homeless" under the federal *McKinney Vento Homeless Assistance Act*, 42 U.S.C. § 1143, which also guarantees "school stability." Factors to be considered in making the best interests determination under both laws could include the distance of the congregate care facility from the prior school (but not the cost of transportation thereto) and the youth's therapeutic needs and permanency goals. If it is not in the youth's best interests to remain in the same school, he/she should be immediately enrolled in the new school. Under McKinney-Vento, this is the case even if the child does not have required enrollment documents.

### Q: Why should a youth at a facility with an on-grounds school attend school in the community?

A: While there may be some circumstances where it would not be in the child's best interest to attend the public school in the community, for many children living in congregate care settings, a school in the community is the most appropriate education setting. Many states specifically permit this. See, e.g., 42 Pa.C.S. § 13-1306

(Pennsylvania); Cal. Educ. Code § 48853 (California); N.H. Rev. Stat. § 193:28, 193:12(III) (New Hampshire); S.C. Code Ann. § 59-63-31(A)(1)(b) (South Carolina). Attending the local school reduces stigma, gives the youth access to a full range of educational opportunities, and is often the least restrictive environment for a youth with special education needs. Public schools are also more likely to have aligned curricula and to recognize credits from other public schools. This allows for smoother school transitions for these highly mobile youth.

## **Q: What can caseworkers do to ensure that these youth succeed in school, stay on track to graduate, and transition seamlessly back to school in the community?**

A: To **promote school stability**, caseworkers should locate a placement in close proximity to the youth's current school and in the most family-like setting possible. Caseworkers should ensure the case plan includes complete and up-to-date education records.

Caseworkers should also work with the school or the juvenile court to make sure there is a parent or other **legally authorized person to make general and special education decisions for the child**.

*Remember, caseworkers are not permitted to sign IEPs or make other special education decisions.* With the authorized person, caseworkers should ensure that the child is educated in a regular public school with nondisabled peers to the maximum extent appropriate.

To make sure **the youth transitions smoothly** to the next school when leaving congregate care, caseworkers should ensure that the child re-enrolls promptly in the next school and that the youth receives credit for work done while in congregate care by gathering transcripts, checking their accuracy, and working with the youth's previous and current school districts.

*Fostering Connections* requires the child welfare agency to develop a detailed transition plan, personalized at the youth's direction, at least 90 days before a youth exits care at the age of 18 or older, depending on the state. 42 U.S.C. § 675(5)(H). Caseworkers should make sure it includes a **graduation plan and comprehensive post-secondary goals**. For youth receiving special education services, this transition plan should be coordinated with the transition plan required under Individuals with Disabilities Education Act starting at age 16 (or earlier in some states). 34 C.F.R. § 300.320(b).

## **Q: What can judges and others in the courtroom do to promote school success**

## **for youth in congregate care?**

A: Judges, child and parent attorneys, CASAs and others in the courtroom should **review the youth's general and special education needs and progress** at all hearings and ensure that the youth has an **engaged adult legally authorized to make education decisions**. If the child does not, and state law or court rules permit, judges should appoint someone (ideally, who knows the child well) to serve in that role.

Judges and attorneys must ensure that the youth **stays in the same school** when moving, unless his/her best interests dictate a school change. Judges should clarify in court orders whether the youth may attend a local public school (or other appropriate school) even though placed in a facility with an on-grounds school.

Judges should check whether the youth received **full credit** for work done and is making progress toward a **timely graduation**. At times, the judge should direct the caseworker to identify remedial services or credit recovery programs to help the youth regain lost ground.

If the youth is approaching discharge, the judge should **review the child's transition plan** to ensure it includes meaningful, specific post-secondary goals.

## **Q: How can systems work together to improve education outcomes?**

A: Systems should creatively work together at the local and state level. For example, in Pennsylvania, some school districts and residential facilities have developed protocols to ensure prompt enrollment and appropriate placement of students. In Illinois, a statewide surrogate parent program focuses exclusively on providing surrogate parents for youth in residential care. That program maintains a list of residential facilities across the state, and each facility is encouraged to contact the program to obtain surrogate parents. By law, California mandates that students receive full credit for coursework completed at non-public schools. Cal. Educ. Code § 48645.5. Also, on-grounds non-public schools must give students access to the same instructional materials used by the district in which the non-public school is located and offer college preparatory courses, career and vocational training, and extracurricular activities. Cal. Educ. Code § 56366.10. Residential placements may not condition acceptance to the facility on the child's attending an on-grounds nonpublic school. Cal. Educ. Code § 56366.9.