

# CHILD PROTECTION BEST PRACTICES BULLETIN

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

### Education Advocacy

#### *What is my ROLE...*

As a **JUDGE**, you would issue an order designating an educational decision-maker for the child. You would inquire about educational services and the youth's educational progress and achievements. You would also inquire about the status of 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 treatment plan be coordinated with the IEP and NSP and included in the report to the Court. You would inquire about barriers to educational success and seek solutions.

As **COURT STAFF**, you would ensure that written orders include an educational decision-maker and other activities ordered by the Judge.

As a **CASEWORKER**, you would ensure that, if necessary, an appropriate evaluation was conducted to identify any need for special education. You would attend IEP, NSP, and other education meetings, as applicable. You would make sure that education plans are coordinated with treatment plans. You would explain the young person's educational rights to the parent and the foster parent, and ensure that they 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 **COURT-APPOINTED ATTORNEY**, you would advocate for appropriate educational assessments and services for youth clients and help ensure coordinated planning efforts. For respondents, you would advocate for their involvement in educational planning for their children, and for information and training to assist them.

As a **CASA VOLUNTEER**, you would attend IEP, NSP and other education meetings, if applicable, and advocate for the best interests of the child. You would make recommendations to the Court on the child's best interests in terms of education.

As a **CRB MEMBER**, you would inquire specifically about child welfare personnel involvement in the development and monitoring of the educational services that are being provided to the child. You would document your observations and recommendations in the CRB report.

#### *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 are, however, significantly more challenged in terms of achieving educational success. Their exposure and experiences before and during foster care are always 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. As a result, 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?*

All students in the public education system are entitled to an early assessment if there is any indication of special education needs. (This is required by the federal Individuals with Disabilities Education Act, or IDEA). Children assessed with disabilities are entitled to an appropriate public education, early intervention services, and any special education services and accommodations they need to enable them to make educational progress. Children in special education are required by law to have an Individualized Education Program (IEP) that is developed by a team. The IEP outlines appropriate coursework, determines a pathway to graduation, sets goals, and includes transition plans.

IEPs are reviewed and, if necessary, revised every year. Beginning at age 14, IEPs become future directed, and involve an educational program and pathway that prepares students for transition to adult life. In addition, every child in public education in New Mexico is required to have a Next Step Plan (NSP), also developed by a team beginning when the youth is in 8<sup>th</sup> grade or turns 14 years of age. The NSP ensures that children are reasonably informed about curricular and course options, and available opportunities for post-high school involvement. 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, or other school plans 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.
- 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. The IDEA states that if a judicial decree or order identifies a specific person to act as a "parent" of the child or to make education decisions on behalf of a child, then such person shall be determined to be the parent for the purposes of the IDEA. 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, there should be a determination by the court as to who will act as "parent" under IDEA to make education decisions. Under the IDEA, if the child is in foster care, the foster parent can act as a parent.
- A surrogate parent appointed by the school or the Court to act as an educational decision-maker *if* both the parent(s) and foster parent(s) are unable or unwilling to make education decisions for the child. The surrogate parent must have knowledge of the child and must be able to advocate for his/her educational needs. However, the Court should not appoint someone with personal or professional interests that conflict with the child's interests. 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. The Court should ensure that an appropriate person has been appointed as the surrogate parent either by the school or by judicial appointment.
- Advocates insisting that children receive the services they need and to which they are entitled. Education advocates can be 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* involved in the young person's education – everything from routine school matters to attending IEP and NSP meetings, and other relevant meetings, as appropriate.
- 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 circumstances might affect his/her educational performance. Caseworkers and others need to know how the child is doing in school.

## 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 special education evaluation or services?
15. What is the child's special education eligibility? Is the child receiving services aimed to address his/her disabilities?
16. Does the child have an Individualized Education Program (IEP)?
17. Who is a part of the IEP team? When was the last time the IEP team met?
18. If preschool-aged, is the child enrolled in an early childhood education program?
19. If 14 or older, what is the Transitional Living Plan to address the youth's educational and vocational needs and goals?
20. If 14 or older, does the child have a Next Step Plan?
21. 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?
22. Overall, are education plans and child-welfare plans coordinated?

Adapted from **Addressing the Educational Needs of Children in Foster Care: A Guide for Judges, Advocates and Child Welfare Professionals.** *New York State Permanent Judicial Commission on Justice for Children.*

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