

KEEPING A CHILD IN FOSTER CARE IN THE SAME SCHOOL IN PENNSYLVANIA: A Guide for Caseworkers, Advocates & Others

On average, children in care change schools twice a year – losing three to six months of progress with every move! One result: higher school drop out rates – for example, the drop out rate among children in dependent care in Philadelphia is over 75%! Two federal laws – the McKinney-Vento Homeless Assistance Act and the Fostering Connections for Success and Increasing Adoptions Act – now make it possible for most dependent children to stay in the same school even if they move into another school attendance area or school district.

*Under, **Mc-Kinney Vento**, children who are “awaiting foster care placement” are “homeless” and have the right to continue in their old school with necessary transportation or immediately enroll in a new school.*

***Fostering Connections** covers all dependent children and requires caseworkers to include a plan for ensuring educational stability in every child’s case plan, including assurances that:*

- *Each placement decision takes into account the appropriateness of the current school placement and the proximity of the new placement to the current school.*
- *If it is in the child’s best interest to change schools, the child is immediately enrolled with all school records.*

Fostering Connections also authorizes foster care agencies to use of foster care maintenance payments to pay for transporting a IV-E eligible child to the old school. How does this work?

Step 1: Consider Whether the Child Is Homeless

“Children Awaiting Foster Care Placement” and “Unaccompanied Youth”

***McKinney-Vento** gives a child who is homeless the right to stay in the current school or the school the child was attending when first placed with transportation to that school unless a school change is in the child’s best interest. If a school change is in the child’s best interest, the child has a right to immediate enrollment in a new school. If there is a dispute about where the child should go to school, the child has the right to stay in his school of choice until the dispute is resolved.*

In Pennsylvania, a child in care is homeless if the child is:

- **Awaiting foster care placement**: **This includes children placed in emergency, interim or respite foster care; kinship care; evaluation or diagnostic centers or placements for the sole purpose of evaluation.** Guidance published by the Department of Education states: “Local school officials must consult with their county children and youth agencies to determine if a child meets the definition of “awaiting foster care placement” including, on a case-by-case basis, whether a child who does not clearly fall into one of these categories is nevertheless a child ‘awaiting foster care placement.’” Basic Education Circular *Education for Homeless Youth* at <http://www.pde.state.pa.us/k12/cwp/view.asp?A=11&Q=54421>.

- **An unaccompanied homeless youth:** This includes any child who is “not in the physical custody of a parent or guardian” such as youth who have run away from home, been thrown out of their home, been abandoned by parents or guardians, or separated from their parents for any other reason. (See BEC, *Education for Homeless Youth*).

If the child qualifies as “homeless” the caseworker should:

- ✓ Contact the McKinney-Vento liaison at the child’s school.
- ✓ Make sure the school understands that the child must be enrolled even if the documents that are usually required for enrollment – such as immunization records – are not yet available.
- ✓ If there are problems, contact the McKinney-Vento regional coordinator.
- ✓ If the Regional Coordinator disagrees that the child qualifies as homeless, the child has a right to the decision in writing and the right to appeal to the State Coordinator. The child also has the right to remain in the school of choice until any dispute is fully resolved. Ask the school for an Enrollment Dispute Complaint Form or call 717-783-6468.

Step 2: Consider Whether the Child has a Right to Stay in the Same School Under Fostering Connections

If the child does not qualify as homeless, he or she may still be entitled to stay in the same school under Fostering Connections. The caseworker should:

- ✓ ***Consider the appropriateness of the current school and school program and the proximity to the prior school of the proposed placement*** when you decide where to place the child. ***Factors to be considered include:*** the academic progress of the child at the prior school, the years the child has attended the school, whether the special education needs of the child are being met, social and extracurricular activities or other supports for the child, the youth’s desire to remain in the school.
- ✓ If the child is changing living placements, the presumption should be in favor of **remaining in the same school unless this is not in the child’s best interest.** Caseworkers should consider the input of the prior school, the biological family, and foster parents with knowledge of the child in making this best interest determination.
- ✓ ***Remember:*** For children placed under Title IV-E ***foster care maintenance payments*** can be used for reasonable travel back to the old school.
- ✓ If a child changes schools, the County Children & Youth agency must coordinate with the sending and receiving school districts to ensure that the child has **immediate and appropriate enrollment in a new school** with all educational records provided to the school.

Wherever the child is attending school, a caseworker must:

- ✓ Ensure that ***every school-aged child is enrolled or in the process of enrolling in a full-time school*** (or has completed secondary school; is educated at home in a legal home study program; is in a legally sufficient independent study program). In rare cases a child may be too sick to attend school, in which case the child should be getting education services where he or she lives; the child should return to school as soon it is medically appropriate.
- ✓ Provide that a ***youth turning 18 (or 21 if enrolled in a school program) receives services, assistance and support in developing a personalized transition plan that addresses education*** 90 days prior to exiting care in addition to housing, health insurance, employment, and other topics and is as detailed as the child may elect.



HOW TO ENSURE PROMPT ENROLLMENT FOR CHILDREN IN CARE

In January 2009, the Pennsylvania Department of Education issued comprehensive guidance to school districts that explains state enrollment laws and is designed to ensure the prompt enrollment of all students in Pennsylvania. The guidance specifically addresses many problems that delay the enrollment of dependent children. See www.pde.state.pa.us/k12/cwp/view.asp?A=11&O=84241

How To Enroll A Child in Out-Of-Home Care in School

- A child may be enrolled by *any other person having charge or care of the child*. The only things that must be shown to enroll a child in foster care or in a residential setting are:
 - ✓ **Proof the Child's Age:** Examples of documents that prove age are the child's birth certificate, a notarized statement by a parent or other relative stating the date of birth, or old school records. A school district cannot demand a birth certificate if other documents are available that prove the child's age.
 - ✓ **Immunization Records:** The old school district or a doctor can confirm by telephone that the child is immunized with records to follow.
 - ✓ **Proof that the Foster Parent's and the Child's Reside in the School District & Contact Information:** This could be a letter from the Child and Youth agency that the child has been placed with the foster parent, or the foster parent's lease.
 - ✓ **Sworn Statement of Child's Disciplinary Record:** If you are unsure, you can say "to the best of my knowledge." Even though this is sometimes called a Parental Registration Statement, the child's parent does not need to be the adult to fill it out.
- **School Districts cannot require ANY OTHER RECORDS** as a condition of enrollment, and cannot under any circumstances ask for the child's social security number; the reason for a child's placement; a child's or parent's visa; agency records; or, except in the limited circumstances a court order or records relating to a dependency proceeding. The school CANNOT inquire into the child's immigration status.
- **School districts cannot refuse to enroll a child based on the child's disciplinary record.** If a child is *currently* expelled for a *weapons* offense, he may be assigned to an alternative placement for the length of the expulsion.
- **A student in Pennsylvania has a right to attend school until the end of the school year in which the student turns 21.**

How Quickly Must the Child be Enrolled in School?

- A child should be permitted to attend school the next school day, and **in all cases within five (5) business days**, after the school district has received all of the documents required for enrollment. A delay in getting old school records, a school's difficulty in placing the child, or

the limited number of days left in the school year are NEVER grounds for delaying the enrollment of the child.

- A former Pennsylvania school district is required to forward the child’s education records **within 10 business days of a request from the current school district.**
- **Homeless children MUST be enrolled immediately** without submitting any documents. The documents can follow later and are often included in student records transferred from the prior school.
- **Home Language Survey:** The survey should be conducted when a child is enrolled in the school district for the first time, but conducting the survey **CANNOT** delay enrollment.

What Should I Do If the School District Doesn’t Follow These Rules?

Step#1: Call the principal and explain the situation or contact the child’s caseworker.

Step #2: If the child is “homeless,” contact the school district’s McKinney-Vento Liaison.

Step #3: Send a Complaint in writing or by phone to: Linda Rhen, School Services Unit, Office of Elementary and Secondary Education, Pennsylvania Department of Education, 333 Market Street, Harrisburg, PA, 17126-0333, Attention: Steve Fisher; Phone: 717-787-4860; Email: RA-PDE-SchoolService@state.pa.us; Fax: 717-783-6802.

Are the Rules Different for Different Groups of Children?

Children in Foster Care

Children in foster care can go to school where they live and should be treated the same way all students in the school district are treated, including the same enrollment rules. A school district may request proof that the child is living with a foster parent or is in a pre-adoptive or adoptive home. A letter from the appropriate agency should be sufficient. The **district cannot require a court order or agency records as a condition of enrollment.**

Children in Residential Facilities

School districts in which “children’s institutions” – detention homes, drug and alcohol treatment centers and other similar facilities – are located are required to admit the children in their public schools. If the child cannot leave the facility (for example, there is a court order that requires that the child be educated in the facility), the school district must make sure that the children are educated, including when needed special education services.

Emancipated Minors

An emancipated minor is a student under the age of 21 who is living with a spouse or who lives apart from her parents or guardians and is not controlled or supported by them. The student may enroll in the school district in which she lives without any additional assistance from an adult.

Re-enrollment of Students Returning from Delinquency Placements: School Placement

When a student returns to the school district from a delinquency placement, **the district cannot place him in an alternative education program for disruptive youth merely because the child had been adjudicated delinquent.** Like any other student being transferred to an alternative school, students returning from delinquency placement are entitled to an informal hearing prior to being placed in an alternative education program. The purpose of the hearing is to determine whether the student is currently fit to return to the regular classroom or meets the

definition of a disruptive student. Factors a school should consider include: whether the incident causing the delinquency adjudication occurred at school or at a school-sponsored event, the child's behavior in placement, and the recommendations of teachers and other adults (such as juvenile probation officers) who have worked with the youth.

Where Can I Get More Information?

PA Department of Education Directives

PDE Basic Education Circular on Enrollment:

www.pde.state.pa.us/k12/cwp/view.asp?A=11&Q=84241

PDE Basic Education Circular on Education for Homeless Students:

www.able.state.pa.us/k12/cwp/view.asp?A=11&Q=54421&tx=0&k12NavPage=

PA Department of Public Welfare Directive

OCYF Bulletin:

www.pccyfs.org/dpw_ocyfs/OCYF_Bulletin_3130-0801_Educational_Stability.pdf

Websites

Foster Education Initiative for Pennsylvania: www.fosteredpa.org

Education Law Center: www.elc-pa.org

Juvenile Law Center: www.jlc.org

Pennsylvania Homeless Children Initiative: <http://homeless.center-school.org>

Legal Center for Foster Care and Education: www.abanet.org/child/education *See Blueprint for Change: Education Success for Children & Youth in Foster Care*

Annie E. Casey Foundation: www.aecf.org

National Association for Education of Homeless Children and Youth: www.naehcy.org/

National Center for Homeless Education: www.serve.org/nche