

Educating Children in Foster Care

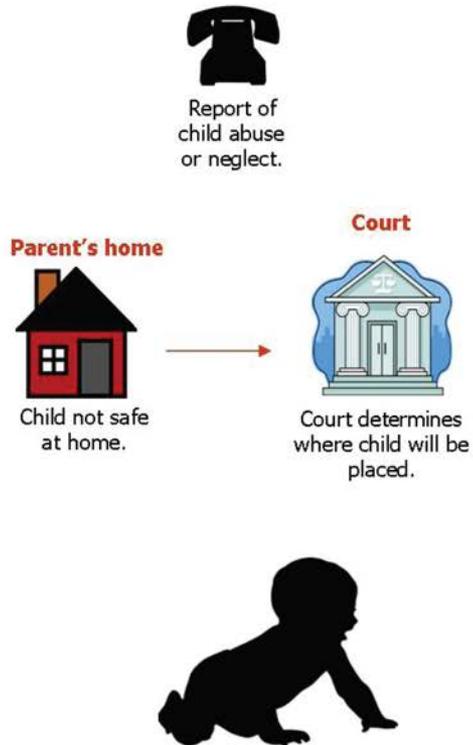
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How do children enter foster care?



Child's Journey Through Foster Care



Foster home



Court sends child to foster home with services.

or

Relative's home



Court sends child to a relative's home with services.

or

Parent's home



Court sends child home with or without services.

Court



Court reviews progress and determines if:

- the child will return home,
- parental rights will be terminated so the child is free for adoption,
- the child will live permanently with a relative, or
- the child will stay in foster care longer.

Foster home



Child remains in foster care while options for permanent family are explored.

or

Permanent home



Parental rights terminated. Child adopted or custody given to another caregiver.

or

Parent's home



Family completes reunification plan. Child returns home.

Facts

- ▶ Number of children in foster care on September 30, 2012: 399,546
 - Currently in Arkansas – 4,000
- ▶ Percent of foster children who change schools when first entering care: 56–75%
 - 50% of children in foster care in Arkansas must be placed outside their home county because there are not enough foster homes available to care for children in their home county.
- ▶ Average number of living arrangements during foster care stay: 2.8

National factsheet on the educational outcomes of children in foster care from national and multi-state studies – January 2014 – www.fostercareandeducation.org



Federal Law



Fostering Connections Act

- ▶ On October 7, 2008, the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110–351, “Fostering Connections Act”) was signed into law.
- ▶ Seeks to promote educational stability for children in foster care.
- ▶ Requires collaboration among child welfare agencies and local educational agencies.



Fostering Connections Act

- ▶ Requires child welfare agencies to include a plan for ensuring the educational stability of the child while in foster care as part of every child's case plan.
- ▶ The plan must include assurances that:
 - Each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and
 - The state child welfare agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.



Fostering Connections Act

- ▶ If remaining in the current school is not in the child's best interest, the case plan must include assurances by the child welfare agency and the local educational agencies that:
 - Provide immediate and appropriate enrollment in a new school; and
 - Provide all of the educational records of the child to the school.



Uninterrupted Scholars Act

- ▶ Amended the Family Educational Rights and Privacy Act (FERPA), 20 USC 1232(g)(b)
 - Created a new exception that allows LEAs to release a child's educational records to child welfare agency workers without prior written consent of parents.
 - Eliminated requirement that LEAs notify parents before education records are released pursuant to a court order to any individual when the parent is a party to the case where that order was issued.
 - Effective January 14, 2013



State Law



Ark. Code Ann. § 9-28-111

- ▶ Case plans – (a) The Department of Human Services shall be responsible for developing case plans in all dependency–neglect cases and in family–in–need–of–services cases when custody is transferred to the department under § 9-27-328.



Ark. Code Ann. § 9-28-111

- ▶ (c)(13) (A) A plan for ensuring the placement of the child in foster care that takes into account the appropriateness of the current educational setting and the proximity of the school in which the child is enrolled at the time of placement, as required under § 9-27-103 [Repealed]; and
- (B) (i) An assurance that the department has coordinated with appropriate local educational agencies to ensure that the child remains at the school where the child is enrolled at the time of placement; or
- (ii) If remaining at the school is not in the best interest of the child, assurances by the department and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the new school; and
- (C) (i) An assurance that each child who has attained the minimum age for compulsory school attendance is a full-time elementary or secondary school student or has completed secondary school.
- (ii) For purposes of this section, "elementary or secondary school student" means, with respect to a child, that the child is:
 - (a) Enrolled, or in the process of enrolling, in a public elementary or secondary school;
 - (b) Home schooled under § 6-15-501 et. seq.;
 - (c) Enrolled in a private elementary or secondary school; or
 - (d) Incapable of attending school on a full-time basis due to the medical condition of the child, and the medical condition incapability is supported by regularly updated information in the case plan;



Ark. Code Ann. § 9-28-112

- (a) The Department of Human Services and school districts shall work together for the best interest of any child placed in the custody of the department.
- (b) By the next business day after the department exercises a seventy-two-hour hold on a child or a court places custody of a child with the department, the department shall inform the child's current school district, regardless of whether the child remains at his or her current school, that:
- (1) The department has exercised a seventy-two-hour hold on the child; or
 - (2) The court has placed the child in the custody of the department.
- (c) By the next business day after a foster child transfers to a new placement, the department shall notify the child's current school that the foster child has transferred to a new placement.



Ark. Code Ann. § 9-28-112

- (d) By the next business day after the department reasonably believes that a foster child has experienced a traumatic event, the department may notify the school counselor of the child that the department reasonably believes that the foster child has experienced a traumatic event.
- (e) By the next business day after the department knows that a foster child has experienced a traumatic event through an investigation or an ongoing protective services case, the department may notify the school counselor of the child of the traumatic event that the department has knowledge of through an investigation or an ongoing protective services case.
- (f) The school counselor of the child may share information reported to the counselor under subsections (d) and (e) of this section with the school principal and the teachers of the child, if appropriate.
- (g) (1) The department or its designee, who may be a foster parent, shall make educational decisions for a child in the custody of the department related to general educational matters, subject to limitation only by the court having jurisdiction of the custody matter.
- (2) For educational matters under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., a foster parent may make decisions for a child in the custody of the department.



Ark. Code Ann. § 9-28-113

- ▶ Individuals who are directly involved in the care, custody and education of foster children must work together to ensure the continuity of education services so that a foster child:
 - Can remain in his or her current school whenever possible;
 - Is moved to a new school in a timely manner when it is necessary, appropriate, and in the best interest of the child under this section;
 - Can participate in the appropriate educational programs; and
 - Has access to the academic resources, services, and extracurricular enrichment activities that are available to all students



Ark. Code Ann. § 9-28-113

- ▶ Requires every school district to identify a foster care liaison to:
 - Ensure and facilitate the timely school enrollment of each foster child;
 - Assist a foster child who transfers between schools by ensuring the transfer of credits, records, grades, and any other relevant school records; and
 - Expedite the transfer of records.
 - When a foster child changes school placement, the foster care liaison in the new school district shall request the child's educational record, as defined by the Department of Education's regulation, from the foster care liaison in the child's previous school district within three (3) school days.
 - The foster care liaison from the previous school district shall provide all relevant school records to the foster care liaison at the new school district within ten (10) school days of receipt of the request under subdivision (c)(3)(C)(ii) of this section.



Ark. Code Ann. § 9-28-113

- ▶ A school district must allow a foster child to remain in the child's current school and continue the child's education.
- ▶ The school district is encouraged to arrange for transportation for the child to enable him or her to remain in his or her current school if reasonable and practical.
- ▶ A school district shall recognize the rights of a foster parent to make educational decisions for a foster child under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., if the foster parent is qualified.



Ark. Code Ann. § 9-28-113

- ▶ If a foster child is subject to a school enrollment change, the foster child's caseworker shall contact the school district foster care liaison within two (2) business days, and the new school must immediately enroll the foster child even if the foster child is unable to provide the required clothing or required records, including without limitation:
 - (A) Academic records;
 - (B) Medical records; or
 - (C) Proof of residency.
- ▶ The Department of Human Services shall provide all known information to the school district that impacts the health and safety of the child being enrolled or other children in the school.



Ark. Code Ann. § 9-28-113

- ▶ The grades of a child in foster care shall not be lowered due to absence from school due to:
 - (1) A change in the child's school enrollment;
 - (2) The child's attendance at a dependency-neglect court proceeding; or
 - (3) The child's attendance at court-ordered counseling or treatment.

[For absences not related to court-ordered activities, the district should apply the regular attendance policy.]

- ▶ Each school district shall accept credit course work when the child demonstrates that the child has satisfactorily completed the appropriate educational placement assessment.



Transportation

- ▶ Fostering Connections Act allows “foster care maintenance payments” (federal funds) to include reasonable transportation to a child’s school of origin.
- ▶ All juveniles in shelters or awaiting foster care placement who are in the custody of DHS are "homeless children and youth."
Ark. Code Ann. § 9–27–334(a)(2)(C).



Who can make educational decisions for a foster student?

- ▶ Anyone appointed by a court:
 - Guardian – a person appointed by a court to have the care and custody of another person. Ark. Code Ann. Sec. 28-65-101(3)
 - Guardian/Attorney ad litem – a person appointed by a court in which a particular proceeding is pending to represent a person in that proceeding. Ark. Code Ann. Sec. 28-65-101(4)
- ▶ Biological parent unless parental rights have been terminated.
- ▶ Foster parent if designated by the court or if parental rights have been terminated.
 - Included in IDEA definition of parent. 34 CFR §300.30



Surrogate Parent

- ▶ If a child with a disability is an unaccompanied homeless youth, IDEA (34 CFR §300.519(a)(4)) requires the public agency to ensure that the youth's rights are protected by assigning a surrogate parent to represent the child in all matters relating to:
 - 1) The identification, evaluation, and educational placement of the child; and
 - 2) The provision of FAPE to the child.



Surrogate Parent

- ▶ Public agencies must ensure that a person selected as a surrogate parent—
 - 1) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;
 - 2) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and
 - 3) Has knowledge and skills that ensure adequate representation of the child.

- ▶ However, in the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to paragraph (1), until a surrogate parent can be appointed that meets all of the requirements.



Resources

- ▶ National Working Group on Foster Care and Education www.ncjfcj.org
- ▶ Casey Family Programs www.casey.org
- ▶ U.S. Department of Education www.ed.gov
- ▶ U.S. Department of Health and Human Services, Administration for Children & Families www.childwelfare.gov



American Bar Association Legal Center for Foster Care and Education

www.abanet.org/child/education
www.fostercareandeducation.org



Transforming systems and improving law and practice to create better outcomes for children in foster care.



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