Caregivers' Role in Education

California Department of Social Services

Agenda Overview

- Education Rights Holder Responsibilities
- Who May Hold Education Rights
- School Stability
- School of Origin
- Education rights & responsibilities of caregivers
- Requesting Education Records
- Senate Bill 233
- Foster Youth Services Coordinators & Foster Youth Liaisons
- Special Education
- Foster Youth Education Rights

Important Statistics

- Students in foster care experience much higher rates of school instability than other students. One third attend two or more schools during a single school year compared to 7% of students statewide.

- Just 19% of students in foster care score proficient or above in English language arts on the California Assessment of Student Performance and Progress ("CAASPP"), compared to 44% of students statewide. Similarly, 12% of foster youth score proficient or higher on the math portion of the CAASPP compared with 33% of students statewide.

- Foster youth have the highest dropout rates and the lowest graduation rates. The single year dropout rate for students in foster care is 8%, compared with 3% of students statewide. Likewise, just 58% of students in foster care graduate from high school compared with 84% of students statewide.

- This information and more can be found in the Alliance for Children's Rights Foster Youth Education Toolkit

Education Rights Holder ("ERH") Responsibilities

- Education Rights Holders are individuals with the legal authority to make education decisions and access education records. All youth must have an Educational Rights Holder, including infants and toddlers.

- Education Rights Holders (except for adoptive parents or legal guardians) **cannot** consent to services or release information from an outside mental health provider. Contact the legal representative for the youth if access to this information is necessary.

Education Rights Holder ("ERH") Responsibilities

- Education Rights Holders have a right to written notice of and/or to make decisions regarding:

  (1) School Enrollment - including transfers to alternative schools

  (2) School of Origin

  (3) High School Graduation - including AB 167/216

  (4) Special Education - including decisions regarding assessments and consenting to an Individualized Education Program (IEP)

  (5) Early Intervention - including decisions regarding assessments and consenting to an Individualized Family Service Plan (IFSP)

  (6) School Discipline

  (7) Mental Health Services provided through a youth's IEP

Who May Hold Education Rights

- Biological parents retain education rights for their children, unless the court limits or terminates their rights.

- When parental rights are limited/terminated, a court must simultaneously appoint a new Education Rights Holder. Appropriate ERHs can include:
- (1) foster parents
- (2) relative caregivers
- (3) Court Appointed Special Advocates (CASA)
- (4) community members who have a relationship with the youth

Who May Hold Education Rights

- Adoptive parents and legal guardians automatically hold education rights.
- Prospective adoptive parents automatically hold education rights once parental rights are terminated.
- Youth automatically hold their own education rights when they turn 18. Youth 16 years or older have a right to access their own education records.

Who May Hold Education Rights

- Any person who might have a conflict of interest may not serve as a youth's ERH, including:

  (1) social workers/probation officers

  (2) group home staff

  (3) therapists

  (4) attorneys receiving attorneys fees

  (5) school/regional center staff

Appointing an Appropriate ERH

- At each court hearing, the judge must assess whether the youth currently has an Education Rights Holder, and whether that person is an appropriate ERH.

- If biological parents continue to hold education rights, there will be no documents to prove this. If a court limits or terminates a parent's education rights, then the court will issue a form which can be used as proof of who holds education rights.

School Stability Matters

Foster youth transfer schools an average of eight times while in foster care, losing four to six months of learning each time. As a result of school instability, only 21% of foster youth are proficient in English by 11th grade, and 6% in math. Fewer than 60% of foster youth graduate from high school.

Definition of School of Origin:

- A youth's school(s) of origin includes:

  (1) the school the youth attended at the time they entered the foster care and/or probation system(s)

  (2) the school the youth most recently attended

  (3) any school the youth attended in the preceding 15 months with which they have a connection (e.g., sports team, relationships with peers or teachers). Feeder Patterns: If youth are transitioning between elementary and middle or middle and high school, school of origin includes the next school within the school district's feeder pattern.

School of Origin

- Foster youth have a right to remain in their school of origin if it is in their best interest, as determined by their Education Rights Holder.

- School of origin is the default. Before making any recommendation to move a foster youth from their school of origin, the district's AB 490 Foster Youth Liaison must provide the youth and their Education Rights Holder with a written explanation of how it is in the youth's best interests not to stay in their school of origin. A youth cannot be moved from their school of origin until after a written waiver of this right is obtained by the school district from the ERH.

Scope of School of Origin:

- School of origin rights apply to all schools, including magnet programs and charter schools.

- Duration of School of Origin Rights: If a youth's court case closes while they are in elementary or middle school, they have a right to remain in their school of origin until the end of the current school year. If youth are in high school when their case closes, they have a right to remain in their school of origin until they graduate from high school.

Transportation Funding:

- Many foster parents, including relatives, are eligible for funding from their local child protective services agency if they transport a youth to their school of origin after a placement change. See All County Letter 11-51, page 3 and All County Letter 13-03, page 2 for funding rates or see flyer (Next Slide)

- Under the Every Student Succeeds Act, school districts must work with child welfare agencies to ensure a youth is transported to their school of origin.

- Each school district's Title 1 plan must include assurances that the district will collaborate with the state and local child welfare agency to develop and implement procedures for how transportation to school of origin will be provided.

The Education Travel Reimbursement Program

Public Law (PL) 110-351 amended Title IV-E of the Social Security Act to require that a case plan includes a plan for ensuring the educational stability of the child while in foster care.

PL 110-351 also provides for the cost of reasonable travel for the child to their school of origin as an allowable foster care maintenance cost.

Assuming that all other eligibility conditions are met, payment begins at the same time as the child's eligibility for a foster care maintenance payment.

For more detailed information see All County Letter 11-51.

Who is Eligible?

The rates listed below are to be paid to foster family home providers including licensed foster parents, approved relatives, certified foster parents, small family licensees and Non-Related Extended Family Members (NREFMs), for each foster child, whose educational stability plan indicates that the child will remain in the school of origin.

- The education travel reimbursement is for eligible youth in grades kindergarten through 12th who return to their school of origin.
- The foster parent reimbursement payment allows for 4 one-way trips (driving foster child to school, driving back home, picking foster child up from school and driving home).
- This payment would be for a 12 month period and payment does not stop for any reason other than a physical placement move for the child. This payment also requires transport for the child to extra-curricular activities, parent teacher conferences, etc.

Mileage Rate

Distance from Foster Care Placement to School of Origin (in miles) One Way Educational Travel Rate per Month per Child

Up to 3 miles	$0
4 to 8 miles	$58
9 to 13 miles	$154
14 to 18 miles	$250
19 to 23 miles	$347
24 or more miles	$443

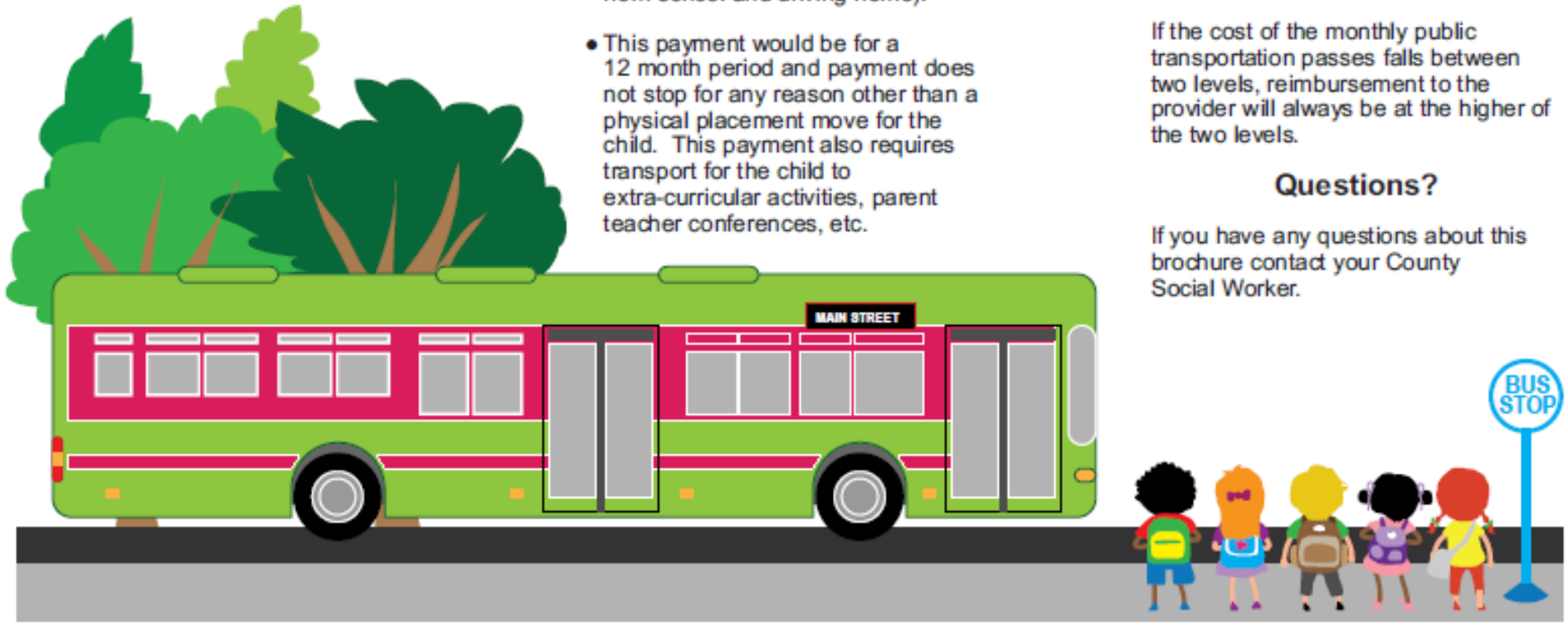
Public Transportation Rate

Public transportation passes are reimbursed at the flat rates of $25, $50, or $75 dollars per month per child, as determined by the placing agency.

If the cost of the monthly public transportation passes falls between two levels, reimbursement to the provider will always be at the higher of the two levels.

Questions?

If you have any questions about this brochure contact your County Social Worker.



Dispute Resolution:

- If at any time, there is a dispute regarding a youth’s right to remain in a school of origin, the youth has a right to remain in that school until the dispute is resolved. Disputes should be referred to the school district’s dispute resolution process. A complaint can also be filed on the youth's behalf through the Uniform Complaint Procedures Act.

Requesting Education Records

- School districts must request records within two business days of a foster youth's enrollment. School districts must forward education records to a requesting school within two business days of receiving a request.

- School districts and local child welfare/probation agencies may share education records of students in foster care or on probation without consent of a parent or guardian.

Requesting Education Records

- School districts must give an education rights holder a complete copy of a youth's education record within 5 business days of a request.
- School districts cannot withhold transcripts, diplomas, or other records if school fees are owed.

Reasons to Request Records

- Track education performance over time
- Understand the youth's history and current needs
- Determine interventions that have or have not worked in the past
- Compare past and current testing to monitor academic progress

Your Child's Education Record

The following changes relative to student records and education information of foster youth have been made by Senate Bill 233 (2017):

Requires a school district to permit access to student records to a:

- Foster Family Agency (FFA) with jurisdiction over a currently enrolled or former student
- Short-Term Residential Treatment Program (STRTP) staff responsible for the education or case management of a student
- Caregiver who has direct responsibility for the care of the student, including a certified or licensed foster parent, an approved relative or non-related extended family member, or a resource family

Your Child's Education Record

- Expands access to student records to include current or most recent records of grades, transcripts, attendance, discipline, online communication, special education assessments, and any individualized education program or 504 plan

- Establishes the right and obligation of the caregiver to access and maintain educational information about the child, regardless of whether the caregiver has been appointed as the student's educational rights holder.

Accessing Educational Documents

- School districts, county offices of education, charter schools and non-public schools are required to grant access to student records to approved resource family caregivers.

- During the Resource Family Approval (RFA) process, caregivers will be provided with training about the expectations for their role in supporting a foster child with their education. Caregivers are obligated to access and maintain educational information about the child, and relay information they gather to the educational rights holder, when that is someone other than the caregiver. Caregivers should use the information gathered to update the Health and Education Passport, and to support the care of the child and their educational needs.

Receiving Educational Documents

- Caregivers have the right to receive assistance accessing educational records from the placement agency. Placement agencies should partner with caregivers to ensure caregivers can obtain their child or youth's educational information and documentation that confirms their status as approved caregivers. Placement agencies are also responsible for providing caregivers with information about their rights and responsibilities with regard to accessing educational information.

- If caregivers have any education questions or follow up questions from the education training that they received during the Resource Family Approval process caregivers can contact their child or youth's social worker, the placement agency, or they may contact The California Foster Care Ombudsperson: fosteryouthhelp@dss.ca.gov.

Senate Bill 233

- Information for school transfer, including name of last school, grade, achievement level, and any special problems should be included as part of the placement paperwork provided to you by the social worker.

- Social workers are also responsible for providing to the caregiver the contact information for person(s) who hold educational rights and the contact information for the nearest Foster Youth Support Coordinating Program and information about their rights and responsibilities.

- If these items are not included, ask your social worker to provide this information. This information may also be included in the child's Health and Education Passport.

Senate Bill 233 Summary

- Regardless of holding educational rights, schools are required to grant access to student records to approved resource family caregivers.
- Caregivers should be provided training and are obligated to access and maintain educational information.
- Caregivers have the right to receive assistance accessing educational records.
- Education information should be included as part of the placement paperwork provided to you by the social worker as well as contact information for person(s) who hold educational rights.
- Caregivers can contact their child or youth's social worker or placement agency if they do not receive educational information.

Foster Youth Services Coordinators

- The California Department of Education (CDE) has administered a statewide grant program since 1981,outlined in ACL 16-91, the Foster Youth Services Coordinating Program (FYSCP). The FYSCP provides funding to County Office of Education (COEs) to improve interagency support for students in foster care.

- The Foster Youth Services Coordinating Program is responsible for ensuring that Local Education Agencies (LEAs) are providing supportive educational services to foster children to improve educational outcomes. Foster children with the greatest need should be the first to receive services, particularly foster children residing in out-of-home placements. The Foster Youth Services Coordinating Program increases stability by providing supports such as assisting with the transfer of health and school records, emancipation training for independent living, and ensuring that all Foster Youth Educational Rights are being upheld. These services are designed to improve educational performance and personal achievement. Each County Office of Education has a designated program coordinator whose contact information can be found on the CDE Program Coordinator's website.

Foster Youth Liaisons

- In addition to the Foster Youth Services Coordinating Program, Assembly Bill 490 charged school districts, county child welfare and probation agencies, and other professionals with additional responsibilities to facilitate educational equity for foster children. Every school district must appoint a designated staff person as the education liaison for wards or dependent children of the court.

- The educational liaisons are placed at County Office of Education and school districts to ensure and facilitate the proper educational placement, enrollment in school, and transfer between schools of foster children. A list of liaisons can be found on the CDE AB 490 Educational Liaisons site: Foster Youth LEA Program Contacts.

Special Education Assessments & Services

For all foster youth with disabilities (or those suspected of having a disability), it is crucial to identify an appropriate ERH.

ERHs must:

(1) consent to assessments

(2) attend/meaningfully participate in all Individualized Education Program (IEP) meetings, and

(3) consent to the IEP document.

Special Education

Look for warning signs that a foster youth could benefit from special education services:

(1) poor grades

(2) withdrawal or depression

(3) acting out or disciplinary problems

(4) poor attendance

(5) inattention or failure to complete work

(6) social skills deficits or failure to make friends

Special Education Assessments & Services

Adults in a foster youth's life can make a referral for special education services (e.g., caregivers, ERHs, social workers, mental health providers). The request must be in writing.

After an assessment is requested, school districts must either provide an assessment plan or a written refusal to assess within 15 calendar days.

The school has 60 days to complete the assessment and hold an initial IEP meeting. Foster youth have other people serving them who may contribute to an IEP meeting including a non-ERH caregiver, social worker, or outside mental health professional.

Even if the student is ultimately found ineligible for an IEP, the student may qualify for needed services under section 504.

Your Child's Educational Rights

The following are the Foster Youth Education Rights, Developed by the California Foster Youth Education Task Force, this summarizes the California *Education Code* sections pertaining to foster youth. It is important for caregivers and youth to know the educational rights of youth in foster care. Caregivers should read and discuss these rights with youth.

RIGHT TO REMAIN IN YOUR SCHOOL OF ORIGIN

- You have the right to stay in the same school after you move to a new foster care placement. Your “school of origin” can be:

  (1) The school you attended when you first entered foster care,

  (2) The school you most recently attended, or

  (3) Any school you attended in the last 15 months that you feel connected to.
- Your school district must work with you, your education rights holder,* your caregiver, and your social worker/probation officer to develop a plan to transport you to your school of origin.
- If you are transitioning from elementary school to middle school or from middle school to high school, you have the right to transition to the same school as your classmates.
- If there is any disagreement about which school you will attend, you have the right to stay in your school of origin until the disagreement is resolved.

RIGHT TO IMMEDIATE ENROLLMENT IN SCHOOL

- You have the right to immediately enroll in your regular home school after you move placements.
- You cannot be forced to attend a continuation school or other alternative education program, such as independent study, even if you are behind in credits or have discipline problems at school.
- You have a right to immediately enroll in school and begin attending classes, even if you do not have the paperwork you would normally need for enrollment (such as birth certificate, transcript, or IEP) or you did not check-out from your previous school.
- Your previous school must send your education records to your new school after you enroll.
- You have the right to participate in any activities available at your new school, such as sports teams, tutoring, or after-school clubs, even if you miss a tryout or sign-up deadline.

RIGHT TO PARTIAL CREDITS FOR HIGH SCHOOL STUDENTS

- If you change schools during the school year, you have a right to partial credits in all classes that you are passing when you leave your old school, even if you do not complete the entire class.
- After you change schools, your new school must accept the partial credits issued by your old school.
- After you change schools, you have the right to be enrolled in the same or similar classes you were enrolled in at your last school.
- You cannot be forced to retake a class or part of a class that you have already completed with a passing grade, if it would make you off-track for high school graduation.
- You have the right to take or retake any class that you need to go to a California State University or University of California.
- Your grade cannot be lowered because you were absent from school for a court hearing, placement change, or a court-related activity.

GRADUATION RIGHTS

- You have the right to stay in high school for a fifth year to complete your graduation requirements, even if you are over 18.
- If you are behind on your credits, and you transferred schools after 10th grade, you may be eligible to graduate under AB 167/216 by completing only the state graduation requirements (130 credits in specific classes) instead of your school district's requirements.
- If you are eligible, the decision of whether to graduate under AB 167/216 is made by your education rights holder.

COLLEGE RIGHTS

- You have the right to have the application fee waived when you apply to a community college in California.
- You have the right to receive the maximum amount of federal student aid and you may be eligible for up to $5,000 per year from the Chafee scholarship.

SCHOOL DISCIPLINE RIGHTS

- You cannot be suspended for more than 5 school days in a row or for more than 20 days in a school year.
- You have a right to be told why you are being suspended and the right to provide your version of events and evidence before you are suspended, unless there is an emergency. If the behavior for which you are being suspended could subject you to criminal charges, you should consult with your education rights holder or attorney before providing an verbal or written statement to the school or police.
- Your attorney and social worker must be invited to a meeting before your suspension can be extended beyond 5 days and a suspension can only be extended if you are being considered for expulsion.
- You have a right to a formal hearing, and to be represented by an attorney at that hearing, before you are expelled.
- If you are facing a possible expulsion, your attorney and social worker must be notified. If you are in special education, your attorney and social worker must be invited to a meeting to decide whether your behavior was related to your disability.

RIGHT TO YOUR SCHOOL RECORDS

- You have the right to access your school records if you are 16 years or older or have finished 10th grade.
- Your social worker/probation officer and education rights holder can access your school records as well.

If you believe your education rights have been violated, you can file a complaint. The school has 60 days to investigate and give you a written response. For information about how to file a complaint, please visit California Department of Education, or call the California Deptment of Education Coordinated School Health and Safety Office at (916) 319-0914.

Educational Rights Summary

- Right to remain in their school of origin
- Right to immediate enrollment in school
- Right to partial credits for high school students
- Graduation rights
- College rights
- School discipline rights
- Right to their school records
- Every foster youth under age 18 must have an education rights holder

Resources for Caregivers:

Permanency Services & Support Unit
(916) 657-1858
FosterCareEducation@dss.ca.gov

- California Department of Social Services Foster Youth Education Resource Hub
- The California Department of Education: Foster Youth Services
- Alliance for Children's Rights Resource Family Approval Guide & Toolkit
- Alliance for Children's Rights Foster Youth Education Toolkit
- Alliance for Children's Rights Education Manual
- California Foster Youth Education Law Fact Sheets
- Foster Youth Education Rights
- Foster Youth Services Coordinating Program (FYSCP) Contacts
- Foster Youth Local Education Agency Program Contacts

Special Education Advocacy Presentation for California Caregivers
November 17th, 2022

Stanford Law School

Abigail Trillin, Clinical Supervising Attorney
Youth and Education Law Project
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Stanford Law School

Agenda

- Your role as a caregiver
- What is Special Education/504
- What is the Process
- Things to Watch Out For
- Special Rights of Foster Youth
- Resources
- Questions

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What is your role?

The educational rights holder is the parent unless the court has appointed a surrogate.

Foster parents, both relatives and non-relatives can be educational surrogates.

Even if you are not the rights holder you have a role to play in assuring appropriate services.

Keep the social worker in the loop, but it's the rights holder who starts the process.

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Special Education

–Students with qualifying disabilities, including emotional and mental health, have the right to specialized education, as agreed to in their IEP.

–IEPs can provide for a wide range of placements and services, including students who are entirely in a regular classroom but receiving additional supports, students in special education classrooms, and children who are in specialized schools.

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Special Education-Key Principles

- Right to a Free and Appropriate Education(FAPE)
- Right to the Least Restrictive Environment
- Individualized Planning
- Parent/Caregiver Participation
- Due Process Protections

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Disability under IDEA

- Common Categories:
- Learning disability
- Emotional disturbance
- Intellectual disability
- Speech and language
- Other health impairment (includes ADHD)
- Autism

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504 Plans

–Students with any disability that impacts school have the right to accommodations through a 504 plan.

Tip: If your child needs special services that will require school district resources they probably need an IEP rather than a 504 plan.

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Special Education Process

- 1) Request Assessment (15 days to give you a plan.)
- 2) Individualized Education Plan(IEP) meeting. (60 days after assessment plan if new assessments required. 30 days if not.)
- 3) If you disagree can request a Due Process Hearing.
- 4) IEPs must happen every year. Assessments every three years.

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Refusal to Assess

- School districts must assess a student based on the request of the educational rights holder.
- Not an excuse that:
- Child has not been in the district or in the home for a long time
- School wants to have SST or 504 meeting

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“Transfer” to Online school

- All students have the right to in-person school.
- Students should cannot be forced into online school/independent study for any reason, including behavior or type of placement.

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School Discipline

- Students cannot be expelled if the behavior was related to their disability.
- School must hold a meeting to determine the connection between the behavior and the disability, called a ”Manifestation Determination.”
- This is true for children with IEPs, 504 plans and also children not yet identified.

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Special Rights of Foster Youth

- School of Origin
- Enrollment
- Credits to graduate
- Foster Ed Liasons
- Right to notice of school discipline (rights holder, social worker and attorney)

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Resources

- California Department of Education, Foster Youth Education Rights
- Avokids, Foster Youth Education Fact Sheets
- Disability Rights California, Special Education Rights and Responsibilities

Questions?