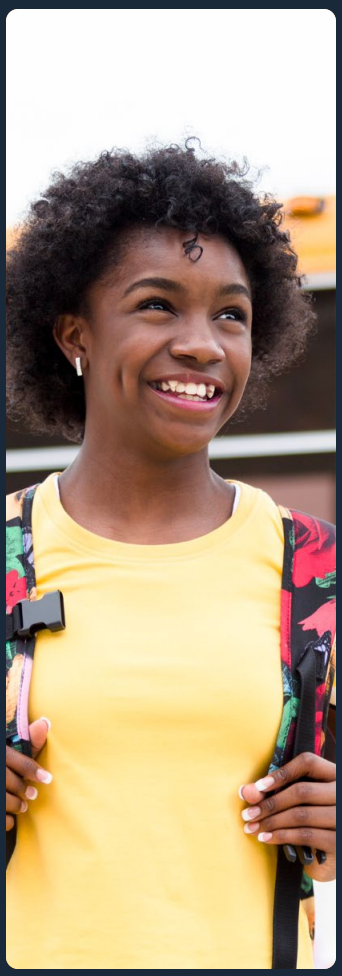
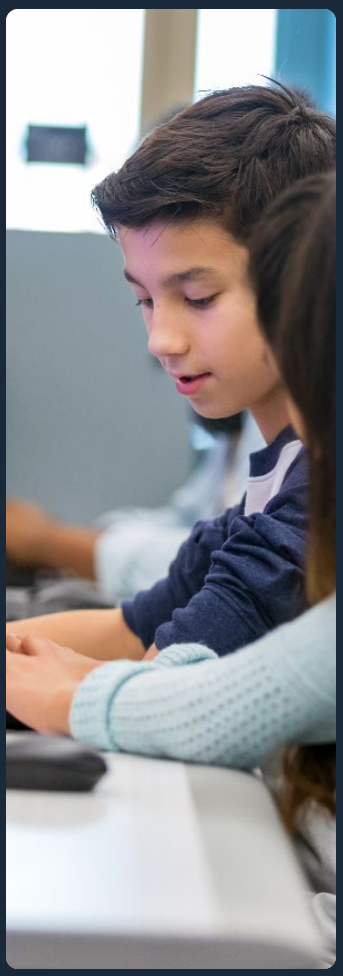
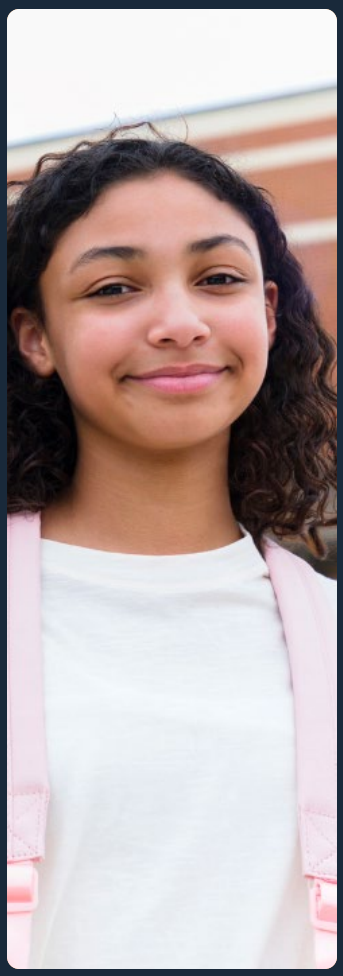
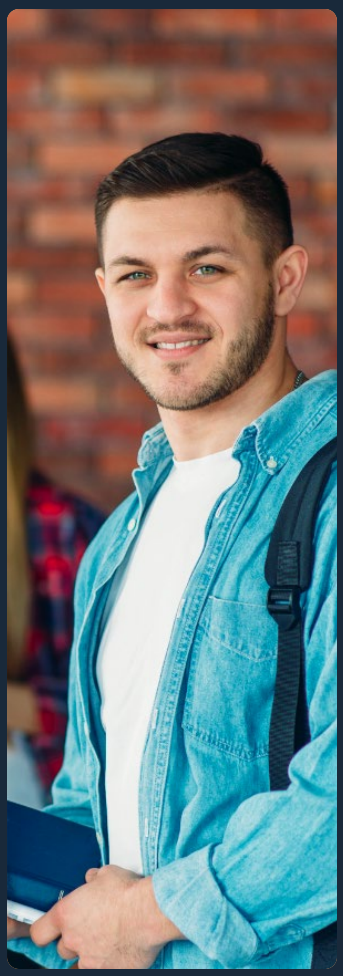
ALLIANCE *for* CHILDREN'S RIGHTS

Comprehensive Education Toolkit for Youth Who Are Systems Involved

2024

Introduction

Youth[1] involved in the foster care[2] and probation[3] systems ("youth who are systems involved") have a right to an education in the least restrictive environment with the appropriate supports and services they need to be successful. School is where youth spend the majority of their waking hours, and uniquely offers opportunities for youth to develop skills that will support their immediate and future well-being and resilience. Unfortunately, youth who are systems involved demonstrate low education outcomes due to many factors including:

(1) the high mobility they face in these systems;
(2) the trauma they have experienced; and
(3) a lack of prioritization of education by the systems that control their lives.

Improving their education outcomes requires prioritizing their education needs and thoughtful coordination between the education, foster care, and probation systems. This comprehensive toolkit is designed for all the adults, and the youth they are working with, to ensure the education needs of youth who are systems involved are met. This toolkit addresses the needs of youth in the foster care and probation systems together because:

(1) these are often the same youth and families[4] facing the same barriers to equity including poverty, racism, homophobia, etc.; and
(2) the education laws designed to protect these two student populations are the same.

1 Throughout the toolkit we refer to youth impacted by systems by the pronouns "they/their". We have chosen this term because it is gender-neutral and inclusive of all youth.

2 We use the terms child welfare system or foster care system due to their more widespread understanding within the community, although we do not believe they accurately describe the function of that system. The terms 'family regulation system' and 'family policing system' come from Professor Dorothy Roberts who posits that the child welfare system often does not hold a child's welfare as the primary goal, and instead allows system pressures and needs (e.g., lack of placements) to justify the mistreatment and re-traumatization of the youth the system is supposed to be protecting from harm. Further, it also reflects that families, particularly families of color, experience this system as one of significant over-surveillance and control; basically, these families are being policed.

3 'Juvenile justice system' is a term commonly used to describe youth charged with a crime or on probation. Using the language of 'justice' denotes that justice is occurring within this system, something that we significantly contest. We believe the term 'juvenile criminal legal system' more accurately captures the function of this system which criminalizes the actions or behaviors of young people. We will use the term 'youth involved in the probation system' because of its more widespread understanding within the community.

4 Professor Denise Hertz conducted a study in Los Angeles County which found that 80% of youth in the juvenile justice system had prior child welfare involvement.

Youth who are systems involved continue to have the poorest education outcomes of any student population in the state.

As mentioned above, mobility is a major factor in poor education outcomes. In the 2021/2022 school year, 35% of youth in foster care changed schools mid-year (compared to only 10% of the general population).[1] In the area of graduation, **youth in foster care graduated at a rate of only 61.4%** in the 2021/2022 school year (compared to 87% of all students statewide).[2] Additionally, in the 2021/2022 school year, **only 10% of youth in foster care met the math standards** (compared to 33% of the general student population), and **only 20% of youth in care met the English standards** (compared to 47% for the general population).[3]

Although there is a wealth of data now available for youth in the foster care system, data for youth involved in the probation system is much harder to find. This data is necessary to understand and meet their unique needs, while also making sure to protect their education privacy rights and to protect them against further discrimination within these systems. These alarming statistics signify that current efforts to improve the education outcomes of youth who are systems involved are not working. Equity demands that school districts and child welfare and probation agencies all improve upon the existing supports and coordination to better meet the education needs of youth who are systems involved.

For over a decade, the Alliance for Children's Rights, in partnership with the California Department of Education, the California School Board Association, the California County Superintendents Educational Services Association, the Association of California School Administrators, the California Department of Social Services, the County Welfare Directors Association, the California Collaborative for Educational Excellence, the Child Welfare Council, the Children's Law Center of California, the Education Coordinating Council, the Los Angeles County Office of Education Foster Youth Services Program, and the Keeping Kids in School and Out of Court Initiative produced a variety of tools designed to help school district, child welfare, and probation agencies better meet the education needs of youth involved in the foster care system. First, the **Foster Youth Education Toolkit** was designed to give school districts the tools necessary to implement the education rights for individual youth in the child welfare system. Second, the **Court Companion to the Foster Youth Education Toolkit** was designed to improve the education outcomes for youth involved in systems with a specific focus on the players in those court systems including youth, education rights holders, social workers, probation officers, attorneys for youth, parent's attorneys, and judges. Finally, the **Best Practices Guide: For Developing a District System to Improve Education Outcomes for Youth in Foster Care** was designed in partnership with school districts (including Alhambra Unified School District ("USD"), Azusa USD, Bonita USD, Long Beach USD, Pomona USD, and West Covina USD) to support districts in creating entire systems and comprehensive practices to consistently implement education rights for all their youth in the district who are impacted by systems involvement. The Best Practices Guide is **data driven** and provides comprehensive information about how to collect and utilize data in a continuous improvement cycle to ensure improved education outcomes for youth involved in systems.

1 This and most recent data available at https://dq.cde.ca.gov/dataquest/.

2 This and most recent data available at https://dq.cde.ca.gov/dataquest/.

3 This and most recent data available at https://caaspp-elpac.cde.ca.gov/caaspp/.

This Comprehensive Education Toolkit for Youth Who Are Systems Involved is a compilation of all three prior toolkits and covers:

- Youth who are systems involved and their education rights holders
- School stability
- Immediate enrollment in the least restrictive educational placement
- Partial credits
- AB 167/216 graduation
- School discipline
- Uniform complaint procedures

In its print version, it provides a brief recitation of all the most up-to-date and relevant laws necessary for all systems personnel to meet the education needs of youth involved in systems. These laws apply to all public schools including charter schools, continuation schools, adult schools run by school districts, and non-public (special education) schools. In its electronic format, it includes links to all the best practices (e.g., for school districts designing a system to issue partial credits for all eligible students, for court personnel to ensure youth are issued their partial credits) and tools (e.g., partial credit calculation formula and data monitoring tips for school districts, minute order language for judges, sample court report language for social workers and probation officers, checklist for attorneys for youth) for all systems personnel.

CONSULTATION OPPORTUNITIES

The Alliance for Children's Rights remains committed to improving the education outcomes for youth involved in systems and is exploring opportunities to continue to support districts on their journey toward this goal. We provide free trainings and consultation to districts, individually and in geographic collaborations, who are interested in implementing the recommendations found in the Comprehensive Toolkit, modified as required to meet their local needs, or in modifying and monitoring improvements through their Local Control Accountability Plan ("LCAP").[1] The Alliance also provides trainings to social workers, probation officers, and other court involved personnel. To learn more about opportunities to partner with the Alliance, please contact Education Program Director, Jill Rowland, at **jrowland@alliancecr.org**.

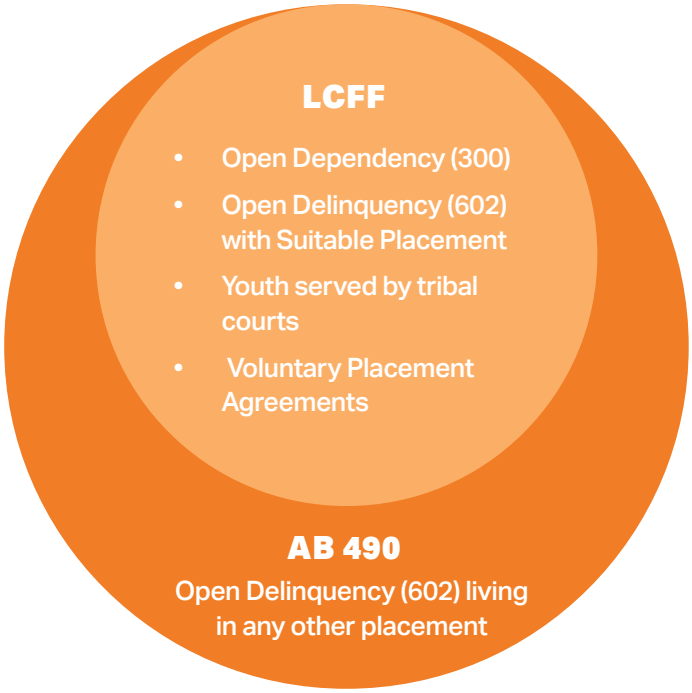
1 Find our Sample LCAP 2024 for Youth in Foster Care, Goals, Outcomes, and Actions, and Additional Activities and Services.

Youth Who Are Systems Involved and their Education Rights Holders

Which Youth are Legally Defined as Youth in the Foster Care System?

Schools should be aware of two important definitions of 'foster youth.' The Local Control Funding Formula ("LCFF") definition identifies which youth will be counted for purposes of LCFF funding and LCAP goal tracking. The broader definition of 'foster youth' under Assembly Bill ("AB") 490 and related laws identifies all youth who are systems involved and who are entitled to all the education rights described in this toolkit including immediate enrollment, school of origin, partial credits, and AB 167/216 graduation.

Under LCFF, the term youth in foster care includes: Cal. Educ. Code § 42238.01(b)	Under AB 490 and related laws, the term youth in foster care includes: Cal. Educ. Code § 42238.01(a)
Any child who is the subject of a: (1) juvenile dependency court petition (Cal. Welf. & Inst. Code § 300), whether or not the child has been removed from their home; (2) dependency petition under the jurisdiction of a court of an Indian tribe, consortium of tribes, or tribal organization; or (3) voluntary placement agreement.	Any child who is the subject of a: (1) juvenile dependency court petition (Cal. Welf. & Inst. Code § 300), whether or not the child has been removed from their home; (2) dependency petition under the jurisdiction of a court of an Indian tribe, consortium of tribes, or tribal organization; or (3) voluntary placement agreement.
Any child who is the subject of a juvenile delinquency court petition (Cal. Welf. & Inst. Code § 602) and who has been removed from their home by the court and placed into foster care under a "suitable placement" order. This includes youth who have been placed in a foster home, relative home, or congregate care facility. It does not include youth who have been placed in a juvenile detention facility, such as a juvenile hall or camp.	Any child who is the subject of a juvenile delinquency court petition (Cal. Welf. & Inst. Code § 602), regardless of where the youth lives.
Any youth age 18 to 21 who is under the transition jurisdiction of the juvenile court (i.e., is in extended foster care).	Any youth age 18 to 21 who is under the transition jurisdiction of the juvenile court (i.e., is in extended foster care).



Key Points:

- Any youth who falls within the narrower LCFF definition also falls within the broader definition entitling them to the protections described in this toolkit.
- The difference between the two definitions is that the LCFF definition (youth for which school districts get funding) excludes some youth in the probation system who are protected under AB 490 and related rights.
- Any youth who falls within the broad definition under AB 490 and related laws should be served by a district's foster youth programs, regardless of whether they "count" for LCFF monetary purposes.
- Any youth who falls within the broad definition under AB 490 and related laws are the same youth we define as youth who are systems involved.

Identification of Youth in Student Identification System

We recommend school districts identify and designate all AB 490 youth (i.e., all youth who are systems involved) as 'foster youth' in their student information system because: (1) knowing who these youth are is an essential first step in trying to meet their needs and serve them; (2) school districts are responsible for ensuring they provide the laws and protections to all of these youth; and (3) this allows for the collection of local data and its use in a continuous improvement cycle to improve the education outcomes of youth who are involved in systems.

Education Decision Makers for Youth Who Are Systems Involved

Ensuring each youth who is systems involved has an Education Rights Holder ("ERH") is essential to protecting their education rights. All parties supporting youth who are systems involved must work together to make sure each youth, whether they have special education needs or not, always has a willing and able ERH.

Education Rights Holder Responsibilities

- ERHs are individuals with the legal authority to make education decisions and access education records.[1]
- All youth involved in systems must have an ERH, including infants and toddlers.[2]
- ERHs have a right to written notice of and to make decisions regarding: (1) school stability; (2) school enrollment, including transfers to alternative schools; (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"); and (6) school discipline.[3] If a school district acts without providing proper written notification or affording decision making rights to an ERH, they open themselves to potential legal liability. For example, an expulsion can be overturned if proper notice and ability to participate is not afforded to an ERH.

Who May Hold Education Rights

- Biological parents retain education rights for their children, unless the court limits or terminates their rights.[4]
- When parental rights are limited/terminated, a court must simultaneously appoint a new ERH.[5] Appropriate ERHs can include: (1) foster parents; (2) relative caregivers; (3) Court Appointed Special Advocates ("CASA"); or (4) community members who have a relationship with the youth.
- 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.[6] Youth 16 years or older have a right to access their own education records.[7]
- Any person who might have a conflict of interest (defined as a person having any interests that might restrict or bias their ability to make education decisions) or receives financial payments for the care of a foster youth (except foster parents/resource families) may not serve as a youth's ERH, including: (1) social workers ("CSW")/probation officers ("PO"); (2) group home staff; (3) therapists; (4) attorneys receiving attorneys fees; or (5) school or regional center staff.[8]

1 Cal. Educ. Code §§ 48853.5, 51225.1, 56028, 56321, 56326; Cal. Gov't Code § 95020.

2 Cal. Welf. & Inst. Code §§ 319(g), 361.

3 Cal. Educ. Code §§ 48853.5, 51225.1, 56028, 56321, 56326; Cal. Gov't Code § 95020.

4 Cal. Welf. & Inst. Code §§ 319(g), 361.

5 Cal. Welf. & Inst. Code §§ 319(g), 361.

6 Cal. Welf. & Inst. Code § 361(a).

7 Cal. Educ. Code § 49076.

8 Cal. Welf. & Inst. Code § 361(a)(2).

Appointing an Appropriate ERH

At each court hearing, the judge must assess whether the youth currently has an ERH, and whether that person is an appropriate ERH.[1] The court may consider the following factors in deciding that an ERH is unavailable, unable, or unwilling to exercise education rights:

- Biological parents' whereabouts are unknown or they are unreachable (e.g., they have not provided the social worker with a working phone number or valid address for the past three months);
- Biological parents are deceased or incarcerated; or
- Current ERH is a previous foster parent that no longer wishes to be involved in the youth's life/education.

If the school is unable to identify the ERH or the ERH is unresponsive after multiple attempts to contact them, immediately contact the youth's CSW, PO, and/or attorney(s) for the youth in order to have an appropriate ERH appointed. Schools may send the **ERH Appointment Request Letter** to the youth's attorney(s), CSW, and/or PO. Depending on the county, an attorney, Guardian ad Litem, and/or a CASA may represent and advocate on behalf of a youth in dependency court. A public defender, panel attorney, or private attorney may represent and advocate on behalf of a youth in delinquency court. If an appropriate ERH is still not identified and appointed, contact the court directly to request assistance.

The court must either:

1. locate and appoint an ERH;
2. make necessary education decisions itself; or
3. submit a JV-535 section 4(a) form to the school district, requesting the appointment of a surrogate parent for youth who are or may be eligible for an IEP/IFSP.[2]

Proof of Education Rights

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 one of the following forms, which can be used as proof of who holds education rights:

1. **JV-535**, "Order Designating Education Rights Holder";
2. Adoption or Guardianship Order;
3. Adoptive Placement Agreement; or
4. Juvenile Court Minute Order.

Resources

Tools for Districts

- **Best Practices on Developing a District System to Identify and Designate Youth Involved in Systems in your Student Information System**
- Review our **Exploration Questions** to see how a District can explore identifying and designating youth involved in systems in your student information system
- **ERH Appointment Request Letter**
- **Screening Questions for Youth Involved in Systems**
- **Student Information System Page for Youth Involved in Systems**
- **District Webpage for Youth Involved in Systems**

Tools for Court Personnel

- **Best Practices for Education Rights (To Be Addressed At Every Court Hearing)**
- **CSW/PO Documentation of Diligent Efforts to Include Youth's ERH in Education**
- **CSW/PO Court Report Language**
- **ERH Checklist**
- **Making Education Decisions for Children Involved with the Dependency Court**
- **CSW/CPO Checklist**
- **Attorney for Youth Checklist**
- **Attorney for Parent Checklist**
- **Judge's Checklist**

1 Cal. Welf. & Inst. Code §§ 319(g), 361.

2 Cal. Rules Ct. § 5.650.

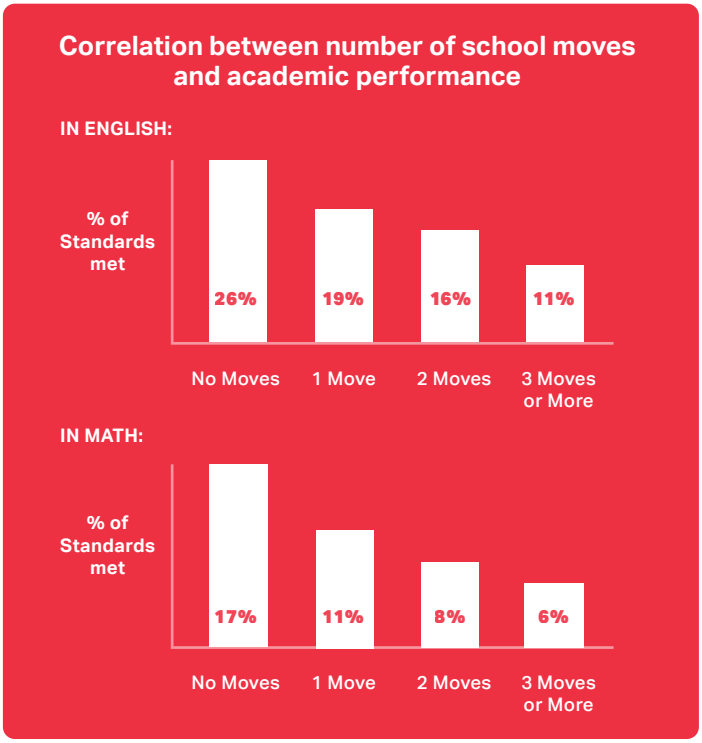
School Stability

School Stability Matters

Youth in foster care change schools an average of 8 times while in care, losing up to 6 months of learning with each move.

In California, 90% of the general student population is considered stable in school, compared to only 65% of youth in foster care.[1] For all students, there is a correlation between the number of school moves and academic performance: each move lessens the likelihood that a student is proficient in English and math.

In English, for students who do not move during the school year, 26% of them met standards; with one move, that drops to 19%, 2 moves to 16%, and three or more moves drops to 11%. **In math,** for students who do not move during the school year, 17% of them met standards; with one move, that drops to 11%, 2 move to 8%, and three or more moves drops to 6%.[2]



When comparing state testing scores, it is no surprise that youth in foster care are performing lower than other students. In English, while 47% of all students met standards, only 21% of youth in foster care were proficient. In math, while 33% of all students met standards, only 10% of youth in foster care were proficient.[3] While there is currently no school stability data available for youth involved in the probation system, they experience significant school disruption when detained and/or moved between different homes and education placements by the court system. Further, youth involved in the probation system often receive inferior education services when forced to attend juvenile court schools and/or illegally required to attend alternative education programs due to their probation status.

In addition to the trauma youth involved in systems suffer being removed from their parents and separated from their siblings, each home change brings the possibility of re-traumatization (e.g., orienting themselves to new foster family members, new rules, new living arrangements, new foods, etc.). If a home change is also accompanied by a school change, youth also lose bonds built with friends, teachers, sports teams, and other extracurricular activities. School instability is also a major cause of the poor social/emotional/behavioral outcomes for youth involved in systems. Data on youth in foster care demonstrating this can be found across the state in school district Dashboards, including poor graduation rates, chronic absenteeism, and school discipline measures. Again, data on youth involved in the probation system is unavailable but is reasonably assumed to be similar or worse.

Improving school stability requires the cooperative efforts of school districts, child welfare and probation agencies, courts, and ERHs. CSW/POs, Attorney(s) for Youth, Attorneys for Parents, Judges, and AB 490 Foster Youth Liaisons all serve important advisory roles in this process and participate in decisions (e.g., home placement, transportation) that deeply impact school stability and the right of a youth to attend their school of origin. Ultimately, ERHs make the final decision about whether it is in the best interests of a youth involved in systems to remain in or return to their school of origin.

1 https://dq.cde.ca.gov/dataquest/DQCensus/StbStudentReport.aspx?cds=00&agglevel=State&year=2021-22&ListReportRows=Sub-&subgroup=-&ro=1

2 Burns, D., Espinoza, D., Adams, J., & Ondrasek, N. (2022). California students in foster care: Challenges and promising practices. Learning Policy Institute. P. 14. Data is from the 2018/2019 school year.

3 https://caaspp-elpac.ets.org/caaspp/DashViewReportSB?ps=true&lstTestYear=2022&lstTestType=B&lstGroup=1&lstSubGroup=1&lstSchoolType=A&lstGrade=13&lstCounty=00&lstDistrict=00000&lstSchool=0000000. Data is from the 2021/2022 school year.

Overview of the Law

School of Origin as Default

Youth involved in systems have a right to remain in their school of origin following a home placement change, unless their ERH determines it is in their best interest to change schools.

In recognition of the major disruptions that occur for a youth when experiencing a school change, both California and Federal law make clear that remaining in the school of origin is the default placement when a youth moves homes.[4]

Child Welfare System and Probation Placement and Notice Requirements

The youth's CSW/PO must consider educational stability when making a home placement decision. This includes consideration of: (1) proximity to the youth's school of origin; (2) school attendance area; (3) the number of school transfers the youth has previously experienced; (4) the youth's school matriculation schedule; and (5) other indicators of educational stability.[5] Child welfare and probation agencies must provide notification for home placement moves that will impact a youth involved in system's school stability. For youth in general education, they must provide notice to the youth's attorney, the ERH, and the court within one day of making the decision to change the child's placement. For youth who have an Individualized Education Program (IEP), notification must be provided to the sending school district as well as the receiving Special Education Local Plan Area (SELPA) at least 10 days before the change of home placement.[6] See **CSW/PO Notice of Placement Change Impacting School Stability**.

District Requirements

Before making a recommendation to move a youth involved in systems from their school of origin, a school district of origin's AB 490 Foster Youth Liaison must provide the youth and their ERH a written explanation of why it is in the youth's best interest to transfer to a new school.[7] See **School of Origin Recommendation Letter**. Also, a youth should not be moved from their school of origin until after a written waiver of this right is obtained by the school district from the ERH.[8] Best practice dictates that a best interest determination meeting and/or conversation is convened with the youth, their ERH, their CSW/PO, and the district of origin and district of residence; this can also take place in a Child and Family Team (CFT) meeting convened by the CSW/PO or an IEP team meeting. See **School of Origin Best Interest Determination Procedures and Worksheet**.

California School of Origin Definition

California law defines school of origin as the school attended when the youth was first removed from their parents/entered the child welfare or probation system, the school attended prior to the most recent home placement change, and any school attended in the last 15 months where the youth feels a connection.[9] This includes matriculation/feeder pattern rights (e.g., if a youth is first removed from their home in elementary school but wants to return to their school of origin in middle school, they can attend the middle school that the school of origin elementary school feeds into).[10] 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.[11]

Federal School of Origin Definition

The federal definition of school of origin, as found in the Every Student Succeeds Act (ESSA) transportation requirements, provides a limited school of origin definition and only includes the last school attended prior to a placement change.[12]

Transportation Funding

ESSA requires school districts and child welfare agencies to develop and implement clear written procedures governing how transportation to maintain youth in foster care in their school of origin, when in their best interest, will be promptly provided,

4 20 U.S.C. § 1112(c)(5)(B), 34 C.F.R. § 299.13(C)(1)(ii); California Educ. Code § 48853.5(f)-(g); Cal. Rules of Court § 5.650.

5 Cal. Welf. and Inst. Code § 16501.1, Cal. Rules of Court §§ 5.650.

6 Cal. Rules of Court § 5.651.

7 Cal. Educ. Code § 48853.5(f)(6)-(7).

8 20 U.S.C. § 6311(g)(1)(e)(i); Cal. Educ. Code § 48853.5; Cal. Rules of Court § 5.650.

9 Cal. Educ. Code § 48853.5.

10 Cal. Educ. Code § 48853.5(f)(4).

11 Cal. Educ. Code § 48853.5(f)(2)-(3).

12 20 U.S.C. § 6312(c).

arranged, and funded in a cost-effective manner.[13] For tips and ideas on developing and funding an ESSA transportation plan, see **School of Origin Transportation for Youth in Foster Care: Strategies and Tips**, **School Stability in LEA Transportation Budgets**, and **School Stability for California's Youth in Foster Care: A Review of Laws and Promising Local Practices**. In addition, many foster parents, including relatives, are eligible for funding from their local child welfare agency if they transport a youth to their school of origin after a placement change.[14] See **All County Letter 11-51**, page 3, and **All County Letter 13- 03**, page 2, for funding rates and how CSWs can seek mileage reimbursement for caregivers. The state has further clarified in **All County Information Notice I-86-20** that other trusted adults may provide transportation for a youth in foster care to their school of origin and are eligible for transportation reimbursement. If the youth has an IEP which requires transportation, the District of Origin is responsible for funding transportation.[15]

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.[16] 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. See **Enforcement of Education Rights of Youth Involved in Systems: Uniform Complaint Procedure Process**. If needed, the Attorney for Youth or the ERH may request a hearing on the potential school move by filing a **JV-539 Form**. The court, on its own motion, can also set the matter for a hearing.[17]

ERH Responsibilities

Any time a youth's home placement is changed, in addition to making the decision about whether a youth should change schools, the ERH must submit a statement to the court indicating whether the proposed change of placement is in the youth's best interest and whether any efforts have been made to keep the youth in the school of origin.[18]

13 20 U.S.C. § 6312(c)(5)(B).

14 20 U.S.C. § 6312(c)(5); 42 U.S.C. § 675(4)(A).

15 Cal. Educ. Code §§ 41850(b)(5) and 56040.

16 Cal. Educ. Code § 48853.5(f)(9).

17 Cal. Rules of Court § 5.651(e)(2)(A).

18 Cal. Rules of Court § 651(e)-(f).

Court Hearing on School Stability

The CSW/PO must provide a report to the court that specifies whether the youth has been allowed to remain in their school of origin pending resolution of the dispute, the best interest opinions of the youth, ERH, and AB 490 Foster Youth Liaison, and whether the youth has been segregated into a separate school or program because of their foster status. At this hearing, the court must also make any findings and orders needed to enforce the education rights of the youth, which may include an order to set a hearing to join the necessary agencies regarding the provision of services, including transportation services.[19]

19 Cal. Rules of Court § 5.651.

Resources

Tools for Districts

- Best Practices on Developing a District System to Consistently Support School Stability
- Review our Exploration Questions to see how a District can explore developing their own systems and best practices around school stability
- School of Origin Recommendation Letter
- School of Origin Best Interest Determination Procedures and Worksheet
- School of Origin Transportation for Youth in Foster Care: Strategies and Tips
- School of Origin Transportation Funding Now Available for Local Education Agencies
- Supporting School Stability for Youth in Foster Care: During Virtual Learning and the Transition Back to In-Person Instruction
- School Stability for California's Youth in Foster Care
- Enforcement of Education Rights of Youth Involved in Systems: Uniform Complaint Procedure Process

Tools for Court Personnel

- Best Practices for School of Origin Court Hearings (Hearings prior to or following home placement changes)
- CSW/PO Notice of Placement Change Impacting School Stability
- School of Origin Best Interest Determination Procedures and Worksheet
- All County Letter 11-51
- All County Letter 13- 03
- All County Information Notice I-86-20
- Sample UCP Complaint Form
- JV-539 Form
- CSW/PO Court Report Language
- ERH Checklist
- CSW/PO Checklist
- Attorney for Youth Checklist
- Attorney for Parent Checklist
- Judge's Checklist

Immediate Enrollment in the Least Restrictive Educational Placement

Immediate Enrollment in the Least Restrictive Educational Placement

If a youth's ERH decides it is not in their best interests to remain in their school of origin, they have a right to immediately enroll in their new local comprehensive school based on their new residence.[1]

If you have not considered **school stability** prior to enrolling a youth in a new school, please review that section before returning here. However, please note that respecting a youth's right to school stability may never be used as a barrier to prevent their immediate enrollment when requested.

When youth involved in systems change schools, there is often a large gap each time they disenroll and enroll. Youth miss out on even more instructional days when enrollment is delayed. Due to the unique circumstances of enrolling youth involved in systems (e.g., enrolling in the middle of a school year, youth with credit deficiencies or behavioral needs, youth who were previously enrolled in an alternative school), districts often recommend or even require that youth involved in systems enroll at alternative school sites. While alternative school placements offer opportunities necessary for some youth involved in systems, youth can also miss out on opportunities provided by comprehensive school campuses such as increasing school engagement through participation in extra-curricular academic and social activities.

Overview of the Law

Immediate Enrollment

If a youth's ERH decides it is not in the youth's best interests to remain in their school of origin, a youth involved in systems has a right to immediately enroll in their local comprehensive public school, even if they do not have any of the typically required documents (e.g., transcripts, immunization records, proof of residence, IEP).[2] Despite not having to have records to enroll, CSW/POs should still make best efforts to keep an up-to-date Health and Education Passport, including current grades, course schedule, credits, IEPs, etc., to provide to the school when enrolling the youth to ensure appropriate grade, high school courses, and special education placement can be made quickly.

Enrollment in the Same or Equivalent Classes

Youth involved in systems have a right to enroll in the same or equivalent classes as those they took at their old school, even if they are transferring mid-semester. Youth cannot be enrolled in all, or a majority of, elective classes. Youth cannot be forced to re-take a class they have already passed unless their ERH agrees, in writing, that it is in their best interest.[3]

Equal Participation

Youth involved in systems have a right to equal access to extra-curricular activities regardless of tryouts or sign-up deadlines (e.g., sports, tutoring).[4]

Enrollment in the Least Restrictive Environment

Youth involved in systems cannot be forced to attend a continuation school, adult school, independent study program, or other alternative education site, even if they are credit deficient, have poor grades or behavioral problems, or are returning from a probation or detention placement.[5] Youth with IEPs must be placed according to what the IEP requires. There are rare exceptions to the requirement to place students in their local comprehensive school, including voluntary and involuntary transfers, each of which have extensive due process requirements prior to completing the transfer.

District Records Requirement

Upon enrollment, receiving Districts must request a youth's education records from their prior school within two business days. The sending District must compile a youth's complete education records as of the last day of actual attendance, including partial credits for high school youth, and forward a copy of all records to the new school within two business days of a request. Districts cannot withhold records due to outstanding fines or fees.[6]

1 Cal. Educ. Code § 48853.5(f)(8)(A).

2 Cal. Educ. Code § 48853.5(f)(8).

3 Cal. Educ. Code §§ 51225.2, 51228.2.

4 Cal. Educ. Code § 48850.

5 Cal. Educ. Code § 48432.5. Note that if a student has an Individualized Education Program (IEP), it may require a different placement.

6 Cal. Educ. Code §§ 48853.5(f)(8); 49069.5(d).

Child Welfare System and Probation Notice and Records Requirements

Once the CSW/PO provides the notice of placement change as discussed above in the school stability section, the CSW/PO must work with the prior school and caregiver to ensure the youth is properly disenrolled, including gathering relevant records including partial credits, and working with the new school and caregiver to properly enroll the youth.[1]

District Communication Requirement

Districts have notice requirements to ERHs, CSW/POs, and attorneys for the youth, including around IEPs, school discipline, etc. Districts should collect contact information for these individuals at enrollment.[2]

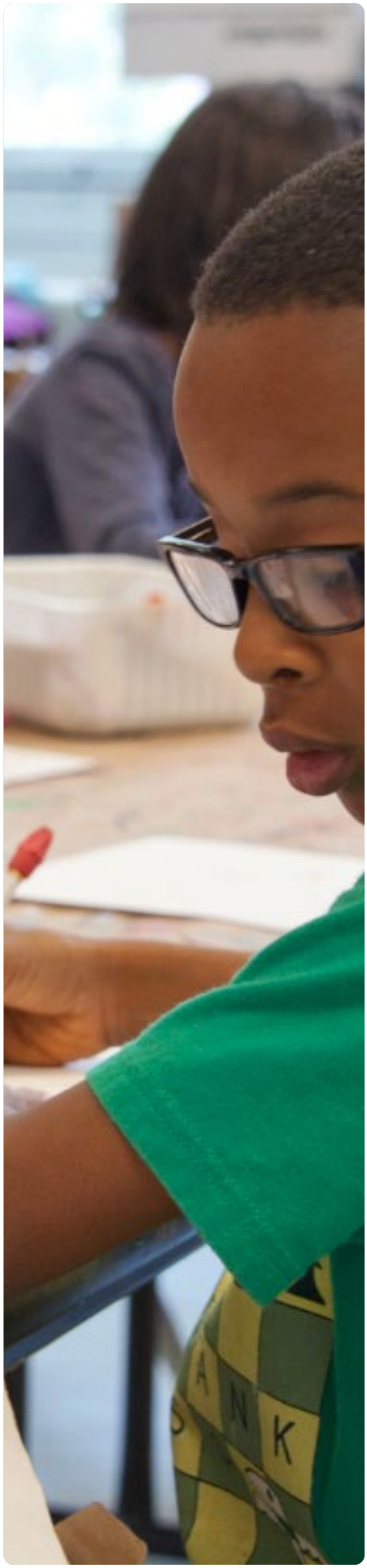
Resources

Tools for Districts

- **Best Practices on Developing a District System to Consistently Immediately Enroll and Appropriately Place Systems Involved Youth in the Least Restrictive Education Setting**
- Review our **Exploration Questions** to see how a District can explore developing their own systems and best practices around immediate enrollment and placement in least restrictive environment
- **Screening Questions for Youth Involved in Systems**
- **Youth Involved in Systems Education Intake Form**
- **Youth Involved in Systems Enrollment Checklist**
- **Sample UCP Complaint Form**

Tools for Court Personnel

- **Best Practices for Enrollment/Disenrollment Court Hearings (Hearings Immediately Before or After A School Transfer)**
- **CSW/PO Notice of School Change and Request for Records**
- **Sample UCP Complaint Form**
- **CSW/PO Court Report Language**
- **ERH Checklist**
- **Making Education Decisions for Children Involved with the Dependency Court**
- **CSW/PO Checklist**
- **Attorney for Youth Checklist**
- **Attorney for Parent Checklist**
- **Judge's Checklist**



1 Cal. Educ. Code § 49069.5; Cal. Welf. Inst. Code § 16010.

2 Cal. Educ. Code § 48911.

Partial Credits

Partial Credits

Youth involved in systems who transfer schools mid-semester have the right to receive full or partial credits for all work satisfactorily completed before transferring schools.

Issuing partial credits to youth involved in systems who have earned them is essential in helping them stay on-track for high school graduation. From an equity perspective, it rewards them, just like any other student, for the work they have accomplished while attending a school. It also helps youth gain a sense of self-efficacy and self-confidence, encouraging them to stay engaged in their education, even if they will only attend a specific school for a short period of time.

All adults supporting youth involved in systems should ensure that they have records from all high schools a youth has attended, and that those records accurately include all credits they were entitled to. As a bonus to the importance of the credits themselves for the youth's graduation status and future, when youth have experienced multiple school moves and revolving adults in their life, an adult taking the time to follow up and do this work for them can go a long way toward building trust.

Districts are now allowed to calculate credits using seat-time or enrollment, or a combination of the two. Many districts have found that using enrollment allows for easier automatic calculation of partial credits in student information systems. Using enrollment to calculate partial credits also creates more equity as it ensures youth involved in systems receive credits without penalty for absences, similar to all other students.

Overview of the Law

District Requirements

Upon receiving notification that a youth involved in systems is transferring schools, a sending school must issue check out grades and full or partial credits on an official transcript, based on either seat time or enrollment. If a new student enrolls who does not have documentation of credits received from their prior school, the receiving school must request credits, including partial credits, from the sending school within two days.[1] If a request for credits is received, a sending school must send a complete transcript, including partial credits, within two days. Once credits are received, the receiving school must accept all check out grades and credits, apply them to the same or equivalent courses, and immediately enroll youth involved in systems in the same or equivalent classes as they were enrolled in at the sending school.[2]

Child Welfare System and Probation Records Requirements

Once the CSW/PO provides the notice of placement change (within 1 day of making a placement change decision for a general education student and 10 days prior to a placement changes for a student with an IEP), the CSW/PO must work with the prior school and caregiver to ensure the youth is properly disenrolled, including gathering relevant records including partial credits, and working with the new school and caregiver to properly enroll the youth.[3] ERHs, caregivers, CSWs, and POs have a right to receive a copy of a student's education records, including partial credits, within 5 business days of a request.[4] See **ERH Records Request** and **CSW/PO Records Request**.

1 Cal. Educ. Code § 49069.5.

2 Cal. Educ. Code §§ 49069.5, 51225.2.

3 Cal. Educ. Code §§ 48853, 48853.5, 49069.5; Cal. Welf. Inst. Code § 16010.

4 17 CCR § 52164(b); Cal. Educ. Code §§ 49069, 49076(k), (n), 56504.

California's Partial Credit Model Policy

In order to comply with the law, school districts are required to have their own policy and issue and accept partial credits. Districts can choose to adopt California's Partial Credit Model Policy and many across the state have done so.[5]

Partial Credit Calculation Table

Credits Earned	Seat Time Calculation Based on Attendance or Enrollment
0.5	7-13
1.0	14-20
1.5	21-27
2.0	28-34
2.5	35-41
3.0	42-48
3.5	49-55
4.0	56-62
4.5	63-69
5.0	70+

Calculating Partial Credits Based on Seat Time/Attendance: This is the original Model Policy. Districts count the number of days/periods attended in each course and issues credits based on that attendance rate and the table above.

Calculating Partial Credits Based on Enrollment: This is an addition to the Model Policy, to reflect new legal options for districts issuing partial credits. As discussed above, this creates more equity in the system by treating youth involved in systems the same as other youth, and not lowering their credits earned based on absences. For purposes of counting seat time based on enrollment (not attendance), the number of days enrolled should be calculated by counting school days from the date of first enrollment to the last day of actual attendance (rather than the day when the youth was disenrolled). This count can then be used with the table above to determine the number of partial credits to award.

Under either calculation formula:

- Check out grades should be issued as of the last day of actual attendance.
- Class periods lasting 89 minutes or longer count as 1 class period; class periods lasting 90 minutes or more counts as 2 class periods.

Calculation Table for Districts with Semesters of Unequal Length

The above Calculation Table was designed for districts who have semesters of equal length. If your district coordinates its semester break with the winter vacation, it is very likely that your semesters are different length (e.g., Semester 1 is 75 days and Semester 2 is 105 days). Please use the **Calculation Table for Districts with Semesters of Unequal Length** which will automatically calculate partial credits based on the length of your semesters. Please input the number of days in each semester and the tool will do the rest.

5 Cal. Educ. Code §§ 49069.5, 51225.2.

Resources

Tools for Districts

- **Best Practices on Developing a District System to Consistently Issue and Accept Partial Credits**
- Review our **Exploration Questions** to see how a District can explore developing their own systems and best practices around issuing and accepting partial credits
- **Student Withdrawal Report**
- **Credit Request Letter**

Tools for Court Personnel

- **Best Practices for Enrollment/Disenrollment Court Hearings (Hearings Immediately Before or After A School Transfer)**
- **CSW/PO Notice of School Change and Request for Records**
- **CSW/PO Court Report Language**
- **ERH Checklist**
- **ERH Records Request**
- **Making Education Decisions for Children Involved with the Dependency Court**
- **CSW/PO Checklist**
- **Attorney for Youth Checklist**
- **Attorney for Parent Checklist**
- **Judge's Checklist**

High School Graduation for Youth Involved in Systems: AB 167/216

High School Graduation for Youth Involved in Systems: AB 167/216

Youth involved in systems are often highly mobile, which is one factor leading to their very low rates of high school graduation.

This is caused, in part, by trauma suffered during and after the move, graduation requirements that change between schools, the difficulty of adjusting to new academic requirements, teachers, books, etc., and the social and emotional burden of making new friends and adapting to a new home and school environment.

Overview of the Law

California law gives youth involved in systems who meet certain requirements the option to graduate under state minimum requirements, without having to meet additional school district or charter school requirements. If a youth involved in systems changes high schools after completing their second year and cannot reasonably complete additional district or charter graduation requirements within four years of high school, they have the right to graduate under the reduced state minimum requirements.[1] This can limit a youth's post-secondary options (e.g., youth often have not completed A-G requirements and cannot go straight to a 4 year university directly after high school, although they might be able to transfer later after taking community college courses), and may not be appropriate for some youth who are still working to learn basic academic skills necessary to be successful. For these reasons, it is important that youth and their ERHs are well-informed about all their graduation options and their implications before they make the decision about what is in the youth's best interest. AB 167/216 graduation applies to charter schools and any school operated by a school district, including adult and continuation schools.[2] Further, districts cannot prevent a youth from graduating due to outstanding fines or fees.[3]

Transfer Schools After Second Year

To determine whether a youth completed their second year of high school, schools must use whichever method is more likely to make the youth eligible: (1) length of enrollment (i.e., student enrolled in 9th grade and two complete school years have passed); (2) the number of credits earned (i.e., student has earned 120 credits which signifies that they have completed two years of high school; or (3) for students who have been out of school, the average age of youth in their grade level (e.g., student never enrolled in high school but is the age of a typical student in their third year of high school).[4]

Cannot Reasonably Complete District Requirements In 4 Years

When conducting a credit check, the law requires partial credits to be combined into a "yearlong course" for purposes of graduation analysis.[5] When completing the reasonableness calculation, it is essential to take into account the trauma a student experiences during a placement change, as well as the difficulty of acclimating to a new school environment with new demands. For this reason, we believe it is unreasonable to expect a youth involved in systems to take any more than a typical course load (e.g., expecting them to take before or after school courses or dually enroll is unreasonable). To calculate whether graduating in four years is reasonable for any particular student analyze the: (1) total number of required school district credits remaining; divided by (2) the maximum number of credits earned by a student taking a normal courseload each semester; which will equal (3) the number of semesters the student must complete to satisfy all local school district requirements. If that number is greater than the actual number of semesters left before the student completes 4 years of high school, then the student is not reasonably able to complete local requirements within 4 years and is AB 167/216 eligible.

In addition, even if a youth could reasonably complete the number of credits required to graduate within four years of high school, looking at the types of courses required is also essential to advance equity. For example, expecting a youth to take multiple years of the same subject in one year may be unreasonable. A youth and their ERH can always determine it is in the youth's best interests to complete extra courses, or multiple courses in the same subject within one year, but that should not be part of the 'reasonableness' eligibility analysis.

1 Cal. Educ. Code § 51225.1.

2 Cal. Educ. Code § 51225.1.

3 Cal. Educ. Code § 48853.5.

4 Cal. Educ. Code § 51225.1(c).

5 Cal. Educ. Code § 51225.2(c)(2).

Eligibility and Reconsideration Requirements

The new school district must determine whether a youth involved in systems is eligible to graduate under AB 167/216 within 30 days of the youth's transfer into a new school. In addition, the district must reevaluate eligibility within the first 30 days of a new academic year, if the youth was found ineligible immediately after their transfer.[6] This accounts for the experience of trauma and school failure that may only occur after a school move. If a youth is found ineligible for AB 167/216 graduation at either of these points in time, they can request that the school reconsider their eligibility at any later time. Once requested, this reconsideration must be completed within 30 days. If a student was not considered for eligibility when they should have been, this does not relieve the district of their responsibility to determine eligibility. For example, if a previous district failed to determine eligibility, and the youth's case has now closed but they would have been eligible with an open case previously, the previous district still has a duty to determine eligibility. The eligibility determination can be completed by either the school a youth attended when they should have been found eligible, or the youth's current school.[7] Once a youth is found eligible, they remain eligible, even if they transfer schools again, return to their biological parents' care, or their court case closes.

Graduation Options

Only the ERH or a youth who is over 18 years old can determine whether graduating under AB 167/216 is in the youth's best interest. An ERH can change their decision of whether or not to graduate under AB 167/216 at any time prior to the youth's graduation.[8]

Graduation options include:

1. accept the exemption and graduate using minimum state requirements; youth can graduate using this option in 4 or 5 years;
2. reject the exemption and graduate using school district requirements; youth can graduate using this option in 4 or 5 years; or
3. acknowledge eligibility but defer decision until a later date.

Regardless of the graduation option chosen, youth graduate receiving a normal high school diploma.[9] There should be nothing on the diploma itself that designates it as any different from a typical district diploma.

Notification and Consultation Requirement

The eligibility determination, graduation options, and the impact of AB 167/216 graduation on admissions to a four-year university, must be provided in writing to the youth, their ERH, and CSW/PO within 30 days of enrollment, 30 days of the new school year, and/or 30 days from reconsideration request, whichever is/are the relevant timeline(s). See **AB 167/216 Graduation Eligibility Notification Letter**. The district must also consult with the youth and their ERH about the impact of the graduation options and credit recovery and other academic support options available in the district. When providing this consultation, the district must also ensure the youth is aware of their school of origin rights.[10]

Child Welfare and Probation System Requirements

ERH/CSW/PO must keep the youth's Health and Education Summary up to date and provide a copy to the caregiver within 30 days of placement (and within 48 hours of any subsequent placements) and include a copy in the court report prior to each hearing. The Summary must include information about a youth's course enrollment and graduation status. This can be accomplished by including a current transcript and a graduation check with the court report. ERH/CSW/POs are responsible for ensuring that the youth has had a meaningful opportunity to meet the challenging state pupil academic achievement standards to which all pupils are held and has had equal access to educational resources such as tutoring, Advanced Placement/International Baccalaureate courses, and vocational/technical education courses.[11]

6 Cal. Educ. Code § 51225.1 (h), (o).

7 Cal. Educ. Code Sec. 51225.1(h), (o).

8 Cal. Educ. Code Sec. 51225.1(r).

9 Cal. Educ. Code § 51225.1 (a), (n).

10 Cal. Educ. Code § 51225.1 (b), (f).

11 Welf. Inst. Code § 16010; Cal. Educ. Code § 48850.

Resources

Tools for Districts

- **Best Practices on Developing a District System to Consistently Determine Eligibility for All Youth Eligible for AB 167/216 Graduation**
- Review our **Exploration Questions** to see how a District can explore developing their own systems and best practices around analyzing AB 167/216 eligibility
- **AB 167/216 Graduation Eligibility Notification Letter**

Tools for Court Personnel

- **Best Practices for Court Hearings Regarding Graduation (Hearings Held for High School Aged Youth)**
- **CSW/PO Court Report Language**
- **ERH Checklist**
- **Making Education Decisions for Children Involved with the Dependency Court**
- **CSW/PO Checklist**
- **Attorney for Youth Checklist**
- **Attorney for Parent Checklist**
- **Judge's Checklist**

School Discipline

School Discipline

Youth in foster care are subject to disproportionate levels of school discipline.[1]

For example, **the suspension rate for youth in foster care in California is 12.6%, compared to the statewide average of 3.2%**. When race is added to the equation, the disproportionality is even more stark, **with the suspension rate for African American students in foster care at 19.1%**.[2]

Youth in foster care face high rates of discipline for a variety of reasons, including racial bias, unmet special education needs, as well as mental health and social-emotional needs caused by the trauma and abuse they have experienced.[3] To address this disproportionality, and ensure that youth involved in systems can benefit from their education without being excluded for disciplinary reasons, coordination and support is needed from the multiple systems serving them, inside and outside of school.

Overview of the Law

Notification

If a school district is considering suspension (including in-school and out-of-school suspensions), expulsion, involuntary transfer to a continuation school, or a manifestation determination IEP meeting, they must provide notification to the ERH, CSW, and the attorney(s) for the youth (including attorneys in their foster care and probation cases).[4]

Resources

Tools for Districts

- **Best Practices for School Discipline Notifications**
- **School Discipline Notification Letter for Youth Involved in Systems**

Tools for Court Personnel

- **Best Practices for School Discipline for Court Personnel**
- **CSW/PO Court Report Language**
- **ERH Checklist**
- **CSW/PO Checklist**
- **Attorney for Youth Checklist**
- **Attorney for Parent Checklist**
- **Judge's Checklist**

1 Please note that there is no specific discipline data available for youth in the probation system.

2 https://dq.cde.ca.gov/dataquest/dqCensus/DisSuspRate.aspx?year=2021-22&agglevel=State&cds=00. Data is from the 2021/22 school year.

3 If you are interested in free trainings on racial justice in education, trauma and education, or special education, please contact the Director of the Education Program at the Alliance for Children's Rights, Jill Rowland, at jrowland@alliancecr.org.

4 Cal. Educ. Code § 48911.

Enforcement of Education Rights of Youth Involved in Systems:
Uniform Complaint Procedure Process

Enforcement of Education Rights of Youth Involved in Systems: Uniform Complaint Procedure Process

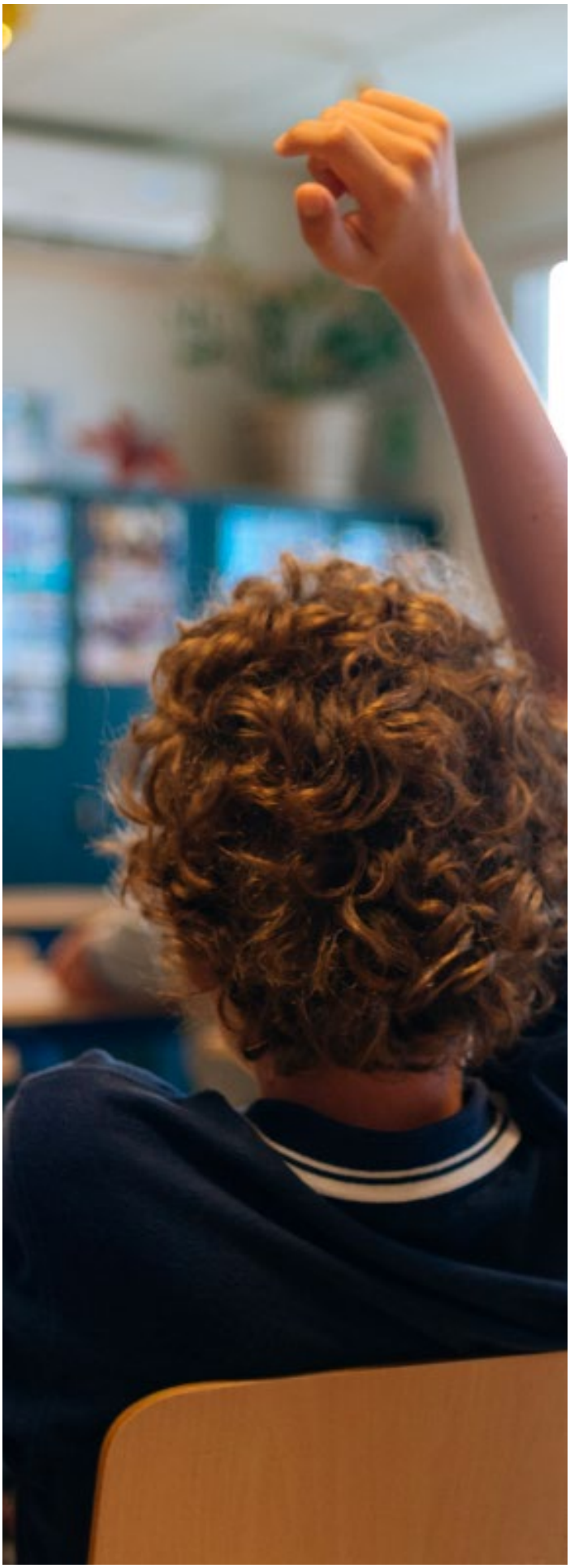
The Uniform Complaint Procedures ("UCP") process allows youth who are systems involved, their education rights holders, or other interested parties (e.g., CSW, youth education advocate/attorney) a way to resolve disputes by filing a complaint with the school district, charter school,[1] and/or the California Department of Education ("CDE").[2]

Complaints can be filed for any violation of school of origin, immediate enrollment, partial credits, and/or AB 167/216 graduation rights. When a complaint is filed with the school district or charter school, the district/charter must investigate and provide a written response, including a proposed resolution, within 60 days. If the person who filed the complaint is not satisfied with the district or charter's response, they may file an appeal with the CDE, who must also investigate and respond in writing within 60 days. If it is determined that a school district or charter has violated a student's rights, the school district or charter may owe, and the CDE may order, a remedy for the student including, for example, enrollment in a school of origin, transportation services to a school of origin, issuing of partial credits, AB 216 eligibility, and/or compensatory education services to make up for time out of school. A **Sample UCP Complaint Form** is available for use by districts/charters, which have a duty to provide a form to youth/ERH/interested parties interested in filing a complaint; the form can also be used directly by youth/ERHs/interested parties to file a complaint against any district.

Resources

Tools for Districts

- **Best Practices on Receiving and Investigating Complaints**
- **Sample UCP Complaint Form**



1 Cal. Educ. Code § 48859(d).

2 Cal. Educ. Code §§ 48853(i), 48853.5(h), 51225.1(m), 51225.2(f); 5 C.C.R. §§ 4600-4687.

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