



Educating Children in Foster Care

State Legislation 2004 – 2007



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“Education was one of the few stabilities that I had in my life. My hope would be that a family would fill that role, but for me, it was education. That was the greatest gift. Everything else was taken away from me, but education wasn’t. Even though it was a battle and a roller coaster, it was a sense of normalcy for me. It made the difference. For foster youth, who lose their culture, sense of self, and identity, education is their ticket out. It’s one of the few things no one can take away from them.”¹

INTRODUCTION

Children and youth in foster care face significant challenges to positive educational experiences and academic achievement. Since the early 2000s, child welfare policy and practice have placed greater emphasis on meeting the educational needs of children and youth in foster care.² A growing body of state legislation has addressed some of the key challenges to improving educational outcomes for children and youth in foster care.³

This report, a companion to the National Conference of State Legislatures’ December 2003 report, *Educating Children in Foster Care*,⁴ reviews state legislation enacted between 2004 and 2007 to improve the educational experiences and opportunities of children and youth in foster care. It also provides information on laws and policies regarding early learning and foster care which were not included in the first report. The level of legislative interest indicates that education for children in foster care is a growing and increasingly higher level legislative priority nationwide.

BACKGROUND

Children and youth in foster care face significant barriers to positive educational experiences and academic achievement. Most children who enter foster care have been exposed to many conditions that have undermined their chances for healthy development.⁵ On average, children who enter the foster care system have experienced more than 14 different environmental, social, biological and psychological risk factors before coming into care. These factors often include abuse and neglect, exposure to illicit drugs, and poverty.⁶ Once in foster care, they often experience other challenges to their well-being. They may be separated from their brothers and sisters, moved from one foster care placement to another, and experience frequent changes in caseworkers who may lack the skills and resources to effectively advocate and plan for their “best interests.”⁷

For the more than 800,000 children and youth served by the foster care system each year,⁸ educational success represents a potential counterbalance to the traumatic experiences of abuse, neglect, separation and impermanence they have endured and the uncertainty, confusion and fear they may experience in foster care.⁹ Positive school experiences can enhance children’s well-being, help them make more successful transitions to adulthood, and increase the likelihood that they can achieve personal fulfillment and economic self-sufficiency and contribute positively to society.¹⁰

For all children and, in particular, for children and youth in foster care, educational coordination, stability, continuity, advocacy and opportunity are essential to positive educational experiences and academic success.¹¹ Studies indicate, however, that children and youth in foster care, compared to

similar children who are not in foster care, have higher rates of school transfer, school absence or tardiness, and suspension and expulsion. They are more likely to receive poor grades, be placed in more restrictive classrooms, perform below grade level, be retained a grade, and receive low scores on state testing. Studies suggest that they are less likely to do their homework, receive help with schoolwork, enroll in college preparatory courses, receive a high school diploma, or participate in post-secondary education.¹²

Several factors have been found to contribute to these negative educational experiences,¹³ including:

- Numerous placement changes, which frequently result in school changes and delays in school enrollment;
- Unclear lines of responsibility and accountability for educational progress;
- Lack of coordination between child welfare agencies, schools, and other service providers; and
- Lack of a consistent and knowledgeable educational advocate.

Research and advocacy have highlighted the critical importance of educational success for children and youth in foster care to ensure their healthy development and positive adult functioning following discharge from foster care.¹⁴ In the absence of significant policy and practice improvements, children in foster care will continue to have poor educational experiences, lack the opportunities they need to succeed academically, and be deprived of the resources that they deserve to reach their full potential.¹⁵

STATE LEGISLATION

Since 2003, legislative efforts to improve the educational achievement of children in foster care have increased substantially across the country, resulting in the enactment of a total of 51 laws. Seven statutes were passed in six different states in 2004; 17 statutes in 12 states in 2005; 15 statutes in 11 states in 2006; and 12 statutes in 11 states in 2007.

These state statutes focus on critical educational issues for children and youth in foster care: interagency coordination, collaboration and information-sharing; educational stability; education continuity; educational

decision making and advocacy; early childhood development; post-secondary educational preparation; post-secondary educational opportunities; and other educational protections and benefits that are essential to ensuring educational success for children and youth in foster care.

Interagency Coordination, Collaboration and Information Sharing

California and Washington continue to be leaders in legislatively addressing the need for improved coordination and collaboration between child welfare and education systems. Earlier legislation in California and Washington set the stage for subsequent laws.

California. In 1981, the Legislature appropriated funds for the Foster Youth Services (FYS) Program, based in the state's Department of Education, to provide grants to counties to develop local, coordinated approaches to public education for children in group homes. In 1999, the Legislature appropriated funds for the FYS Program to be expanded statewide, and, as of 2005, 55 California counties were participating.¹⁶ A 2006 report¹⁷ highlighted the positive effects the FYS programs had on:

- Children's academic improvement: 68 percent gained at least one month of academic growth per month of tutoring received.
- Expulsion rates: Only 0.2 percent—eight students—were expelled, surpassing the target objective of fewer than 5 percent of students expelled.
- Attendance rates: A 96 percent attendance rate was achieved.

The success of the FYS program has been attributed to the program's focus on obtaining health and school records to determine appropriate school placements and coordinate instruction; providing direct service and referrals for counseling, tutoring, mentoring, vocational training, emancipation services and training for independent living; and facilitating educational advocacy, training and collaboration among partner agencies and systems.¹⁸ However, as current funding allows for services to only approximately 16 percent of the youth in foster care in the state, additional support

will be needed to ensure that the remaining 84 percent of children and youth in care have the opportunity to benefit from these services.

In 2003, California passed Assembly Bill 490 (AB 490), landmark legislation to address the barriers to equal educational opportunities for children in foster care. The legislative intent of AB 490 was that “educators, care providers, advocates, and the juvenile courts shall work together to maintain stable school placements and to ensure that each pupil is placed in the least restrictive educational programs, and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all other pupils.”

AB 490 required educational agencies to designate educational liaisons for children in foster care to ensure and facilitate timely and appropriate educational placements and transfers.¹⁹ Progress has been made,²⁰ including the development of training and other implementation materials to ensure roles, responsibilities and rights are clearly understood by children, child welfare personnel, educators, foster parents, group home staff and others.²¹ Despite the positive effects, however, more work remains because some youth continue to experience delays in school enrollment; difficulty accessing transportation; difficulty receiving partial credits for previous coursework; and placement in more restrictive environments.²²

Washington. In 2003, Washington passed legislation requiring the child welfare agency to develop protocols with school districts and an interagency oversight committee to ensure communication, coordination, collaboration and effective sharing of information.²³ As a result,²⁴ an educational manager is now on staff at the Children’s Administration; caseworkers, educational staff and foster parents have been trained in educational advocacy and information sharing; and a practical field guide has been developed for widespread stakeholder use.²⁵ To further the effectiveness of this legislation, advocates are working with state legislators to explore funding to expand the presence of dedicated educational staff within each of the six Children’s Administration regions.

From 2004 through 2007, a growing number of states enacted legislation to promote stronger collaboration and communication between child welfare systems

and educational agencies and, in some cases, other stakeholders.

Interagency Agreements

In Florida, legislation passed in 2004²⁶ requires interagency agreements to be developed among the state child welfare agency, the state educational agency and district school boards to address educational disruptions for children in foster care, identify necessary services, foster information sharing, address educational needs of children with disabilities, and provide educational advocacy training. This legislation also clarified the scope of information sharing activities, adding the child welfare department and lead community-based providers to the list of organizations to which students’ records may be released, consistent with federal law.²⁷

Interdisciplinary Collaboration

In 2005, laws were enacted in Arkansas²⁸ that encourage collaboration and the ongoing exchange of information between parents, the child welfare agency, schools, courts and service providers. House Bill 2604 states that, “...the Department of Human Services and the local school districts shall work together for the best interests of any child placed in the custody of the department.” House Bill 1710 states that, “... individuals who are directly involved in the care, custody, and education of foster children should work together to ensure continuity of educational services to foster children.”

In Louisiana, a 2006 law urged the Department of Social Services, the Office of Community Services, and the Department of Education to develop a plan to improve educational progress for children in foster care. The law included specifications for processes to ensure that students’ health and educational records are current; accurate and timely transfer of records; prompt resolution of disputes regarding transportation or service delivery; and appropriate educational placements in the least restrictive environment.²⁹

Interagency Information Sharing

Between 2004 and 2007, legislatures in five states enacted statutes that clarify or expand the scope of information that the child welfare system or the courts provide to educational authorities.

- In Maryland, Senate Bill 426, enacted in 2005, requires the foster care placement agency to provide notice to schools regarding a child’s foster care

status at the time of enrollment (or the plan for enrollment).³⁰

- A 2007 New Hampshire law requires the court to notify a school district when the court is considering an out-of-district placement in order to give the school district an opportunity to send a representative to the placement hearing.³¹
- In Virginia, 2005 legislation requires social services agencies, within 72 hours of placing a child in foster care, to notify the principal of the school in which the student is to be enrolled and the superintendent of the relevant school district or a designee and to inform the principal of the status of the child's parents' parental rights.³² In addition, the Virginia legislature passed two laws, in 2007, that require parents, guardians or licensed child placing agencies to provide information regarding students' criminal or delinquency status to the public schools upon registration.³³
- Following the passage of two pieces of legislation in 2005, Arkansas now requires that the child welfare department provide information to schools on any health and safety issues that affect students who are in foster care. The department also is required to provide notice to local school districts when the court has placed a 72-hour hold on a child or a child has been placed in the department's custody.³⁴
- In 2005, the governor of California signed a bill urging Congress to enact an exception to the federal Family Educational Rights and Privacy Act (FERPA) to allow schools to share relevant pupil records with interagency child death teams.³⁵
- An estimated two-thirds to three-quarters of children and youth who enter the foster care system must change schools.³⁷
- One study found that almost 65 percent of children entering foster care had to transfer to a new school in the middle of the school year.³⁸
- On average, children in foster care move one or two times each year.³⁹
- In a study of young adults who had left foster care at age 18, one-third reported they had changed schools five or more times.⁴⁰
- Another study found that 65 percent of adults formerly in foster care experienced seven or more elementary and secondary school changes before they left high school. Nearly one-third experienced 10 or more school placement changes during their stay in foster care.⁴¹

School mobility has been shown to have a significant negative effect on children's academic progress and opportunities for educational success.⁴² Studies have found a relationship between frequent school changes and an increased risk of failing a grade in school or performing poorly on standardized tests:

- One study found that, by the sixth grade, students who had changed schools four or more times had lost approximately one year of educational progress.⁴³
- Another study found that children and youth in foster care who attended public schools scored 16 to 20 percentile points below youth who were not in foster care on statewide standardized tests at grades three, six and nine.⁴⁴

Educational Stability

One significant barrier to the educational success of children and youth in foster care is placement instability and resulting school mobility. Children and youth in foster care frequently experience both planned and unplanned school changes, often when they first enter the foster care system (and cannot be placed in a foster home within their original school district), and again throughout their time in foster care if they move from one foster home to another.³⁶ A number of studies have documented the educational instability of children and youth in foster care:

School changes also have been found to negatively affect children's social experiences because they have fewer opportunities to develop strong and healthy peer-to-peer relationships and relationships with teachers.⁴⁵ Finally, school changes also cause children and youth to miss opportunities to prepare for post-secondary education or learn about the educational resources that may be available to them.⁴⁶

School stability, by contrast, is associated with improved educational progress for children and youth in foster care. One study found that youth who had

one fewer placement move each year—and greater school stability as a result—were almost twice as likely to graduate from high school before they left foster care.⁴⁷

The federal McKinney-Vento Homeless Assistance Act (42 U.S.C. §11431 et seq.) provides for educational stability of many children in foster care, as it offers eligible children “awaiting foster care placement” certain rights and protections, including the right to remain in their original schools.⁴⁸ The act does not define “awaiting foster care placement.” A few states, however, have defined the term through statute, regulation or policy:

- Since 2003, administrative policies for Tennessee’s Department of Children’s Services have provided that children in temporary or emergency placement shall remain in their previous schools if possible and if it is in the child’s best interests. These policies further state that the local school system has the first obligation to provide transportation, under the McKinney-Vento Homeless Education Act. If the local school system does not provide transportation, the case manager may be required to transport the child or youth to and from the original school until he or she is placed in a more permanent setting.⁴⁹
- Enacted in 2005, Delaware law states that “awaiting foster care placement” includes all children in out-of-home care, thereby providing all children in foster care with the rights and benefits of the McKinney-Vento act.⁵⁰
- A 2005 Arkansas law defines all juveniles in shelters or awaiting foster care who are in the custody of the department as homeless children and youth for purposes of eligibility under the act.⁵¹
- Also in 2005, the state education and child welfare agencies in both Connecticut and Massachusetts agreed to allow certain children in foster care the rights and protections of the act.⁵²

In most states, only some children in foster care meet the definition of “awaiting foster care placement” and, as a result, most are not afforded these protections. To address this shortcoming, many states have created separate laws or policies to provide educational stability for children and youth in foster care.⁵³

The 2003 NCSL education report highlighted the legislative efforts in California, New Hampshire and Washington to promote educational stability for children and youth in foster care.

California. As noted earlier, the California State Assembly passed AB 490, which in addition to other provisions, provides almost all of the McKinney-like protections to children in foster care.⁵⁴ AB 490, however, did not include a mandate for transportation to a child’s school of origin (even when determined to be in that child’s best interest). As a result, advocates and caseworkers have found it difficult to maintain children’s enrollment in their school of origin.⁵⁵

New Hampshire. A 2001 New Hampshire law amended state statute to allow children in foster care the opportunity to continue attending their school of origin as long as the following conditions are satisfied: continuing in the same school district is in the child’s best interest; the placement is within a reasonable distance of the school; and suitable transportation can be arranged without imposing additional costs on the school district or the state child welfare agency.⁵⁶

Washington. In 2002 and 2003, Washington legislators recognized the importance of neighborhood-based foster care and early court involvement in educational issues as key strategies in promoting educational stability. The Legislature:

- Mandated the formation of a working group to prepare a plan to address educational stability for children and youth in foster care;
- Directed two school districts to implement a pilot project to assist children in care to continue attending the school in which they were enrolled prior to entering care; and
- Required the child welfare agency to establish an interagency oversight committee to develop strategies to recruit foster parents in school districts with high rates of foster care placements and to work with the courts to develop protocols to ensure educational stability is addressed in initial court hearings.⁵⁷

The working group and the interagency oversight committee have been active for a number of years, and the legislation has resulted in increased training and greater awareness of the importance of supporting the

educational achievement of children in foster care. Advocates, however, have only just received funding to begin work with the Children's Administration to increase foster home recruitment in targeted areas.⁵⁸

Since 2003, Arkansas, California, Missouri, Oregon, Virginia and Washington have addressed educational stability for children and youth in foster care through legislation that allows children to attend their school of origin when they enter foster care and/or when they move from one placement to another.⁵⁹

In Oregon, legislation also directs the courts to give preference to potential foster care placements that can maintain the child in his or her school of origin, and it requires the placement agency provide transportation for a child who must transfer from his or her school of origin.

Virginia law states that a foster child who moves into a new school district is allowed to continue to attend his or her school of origin, and the school may be accorded foster child education payments from the new school district. In accordance with the new law, the Virginia superintendent of public instruction and commissioner of the Department of Social Services issued memoranda to inform local school division superintendents and local social services agencies of the new provisions.⁶⁰

Washington added a new legislative provision directing the interagency Oversight Committee to develop strategies to maintain children in foster care in the schools they were attending at the time they entered care.⁶¹

Educational Continuity

When children in foster care are not able to remain in their schools of origin, they often are not immediately enrolled in a new school. Like many homeless students, they frequently lack the documents required for school enrollment, such as school records, medical records or proof of residency. Without legal protections, children who are moved to new foster care placements may experience significant delays in school enrollment, resulting in days, weeks or even months of exclusion from school as they wait for documents to be located, testing to be initiated or re-done, and educational planning meetings to be scheduled and convened.⁶²

In 2003, three states legislatively mandated the immediate enrollment of children in foster care in new schools when a school transfer was necessary.⁶³ Since 2003, an additional five states have enacted legislation to safeguard the rights of children in foster care to educational continuity when they must be enrolled in new schools.

- In Missouri, House Bill 1453, enacted in 2004, requires the automatic transfer of records whenever children must change schools when they enter foster care. The law mandates that the child welfare agency and the education agency establish procedures to facilitate this record transfer.⁶⁴
- A 2005 Virginia law requires that children in foster care be immediately enrolled in school, regardless of whether a local social services agency is able to produce the required documents. It mandates school district cooperation to facilitate the enrollment of children in foster care across jurisdictional lines.⁶⁵
- Arkansas legislation passed in 2005 requires that every school district identify a foster care liaison to ensure timely school enrollment of children in foster care, help these children transfer schools, and expedite the transfer of school records.⁶⁶ To date, the effect of this legislation has been mixed. Although educational liaisons are now available in all 10 state child welfare agency area offices, it is not always clear who serves as the liaison, given staff turnover and the frequent assignment of liaison responsibilities to caseworkers.⁶⁷
- North Carolina, in 2007, enacted legislation that provides that students may attend school outside their school district where they reside if their parents or legal guardians have relinquished physical custody upon recommendation of the Department of Social Services or Division of Mental Health. It further requires that the state Board of Education and every local board of education ensure compliance with the McKinney-Vento Act.⁶⁸
- A 2007 Maine law implements the recommendations of the Governor's Task Force to Engage State's Youth and ensures that students who must change schools have the same opportunities to earn an approved high school diploma.⁶⁹

Education Decision Making and Advocacy

Children and youth in foster care often lack a knowledgeable, consistent educational advocate.⁷⁰ Although children in foster care may have several assigned advocates (including foster parents, caseworkers, school social workers, attorneys, judges and others), these individuals may not have the skills or knowledge to effectively serve as educational advocates. They may not be well-versed on education law and policy or trained to work with school systems to meet the educational needs of children and youth in foster care. All too frequently, parents and foster families are not included in educational planning meetings; foster parents are not supported in their roles as educational advocates for the children placed with them; and caseworkers already overburdened by large caseloads do not have the time to participate in educational planning activities.⁷¹

As described in the 2003 NCSL report, a number of states, in the early 2000s, enacted legislation regarding educational decision-making and advocacy for children in foster care. Arizona, California and New Hampshire incorporated language from regulations implementing IDEA (enacted as the *Individuals with Disabilities Education Act*, as amended in 1997) that provided that a foster parent may act as a child's "parent" under IDEA.⁷²

Ohio requires foster parents seeking licensure in specialized foster care to receive training in special education.⁷³ California regulations require courts to appoint a "responsible adult" to make educational decisions for a child whenever the court limits the educational rights of the parent or guardian,⁷⁴ and they give first preference to relative caregivers, foster parents or court appointed special advocates for appointment as a surrogate parent in cases in which no parent can be identified.⁷⁵ These regulations, however, restrict the authority of a foster parent to act as a child's "parent" under IDEA to those situations in which the child's placement is a "planned permanent living arrangement" rather than a temporary foster care placement.⁷⁶

Since 2004, the federal government and three states have legislatively addressed educational decision-making for children in foster care.

- In 2004, with the federal reauthorization of IDEA, the definition of "parent" was expanded to include

"a natural, adoptive, or foster parent of a child (unless a foster parent is prohibited by State law from serving as parent)."⁷⁷

- In Arkansas, 2005 legislation requires school districts to recognize the rights of foster parents when making educational decisions for children.⁷⁸
- In California, Assembly Bill 1261, enacted in 2005, authorizes the court to temporarily limit the right of a parent or guardian to make educational decisions for a child, temporarily appoint a responsible adult to make those decisions, and temporarily appoint the court in the absence of a responsible adult or assigned foster parent.⁷⁹
- In 2006, North Carolina's House Bill 1074 defined a child's foster parent as a "caregiver adult" and, as such, empowered to make educational decisions concerning the child. Foster parents are granted the same legal authority and responsibility regarding the child as that held by a parent or legal custodian.⁸⁰

Early Childhood Development

Children under age 1 represent the largest group of children (15 percent) to enter the foster care system each year.⁸¹ More than 142,000 (28 percent) of the children in foster care are under age 5.⁸² Many of these infants, toddlers and preschoolers who enter the child welfare system already have been exposed to poverty, substance abuse, and parental neglect and abuse.⁸³ Compared to other children living in poverty, young children in foster care are far more likely to have special needs.

Studies indicate that developmental delays are extremely common among children younger than age 5 in out-of-home care; an estimated 13 percent to 62 percent, compared to 4 percent to 10 percent of the general pediatric population.⁸⁴ A recent study found that more than half of over 200 children in foster care under age 31 months had speech/language delays (compared to the general population of preschoolers in which only 2 percent to 3 percent had language disorders and 10 percent to 12 percent had speech disorders).⁸⁵

Research suggests that children with health or developmental problems fare worse in child welfare systems.⁸⁶ These vulnerable children are far less likely

to receive services that address their needs because they often lack the most fundamental resources to ensure their healthy development—a consistent relationship with a committed, caring adult who can observe their development over time, advocate on their behalf, and consent to services.⁸⁷

Early childhood development services for children in foster care have not been a principal focus of state legislative activity. Since 2003, only one state has enacted legislation to provide resources for such services. In 2006, Arizona Senate Bill 1164 established the Displaced Pupils Choice Grant Program that funds tuition for preschool children with disabilities placed in foster care with appropriations of \$2.5 million from the state general fund.⁸⁸ The grants of \$5000 or less must be applied to tuition and fees for educational and related services provided by one of the program's 93 approved grant schools.⁸⁹ The child welfare agency's Educational Case Management Unit is helping the education department process applications for eligibility. Students were first able to use the program in the fall of 2007.⁹⁰

The importance of state support of early childhood services for children in foster care has also been evident at the federal level in the reauthorization of IDEA, Part C – Early Intervention (2004) and Head Start (2007).⁹¹ Under IDEA, Part C – Early Intervention, as amended, any state receiving a Part C grant must make early intervention services available to infants and toddlers with disabilities who are wards of the state; must describe their referral policies and procedures for children under age 3 who are involved in a substantiated case of child abuse or neglect; and must ensure the meaningful involvement of underserved groups, including wards of the state, in the planning and implementation of the Part C program.⁹²

The “Improving Head Start for School Readiness Act of 2007”—the most recent Head Start reauthorization—contains a number of provisions regarding children in foster care, including a definition of homelessness consistent with the McKinney-Vento Homeless Assistance Act (with children awaiting foster care placement included in the definition of homeless children); requirements that programs develop plans for meeting the needs of children in foster care, including the provision of transportation and collaboration with child welfare agencies; funding for staff training, child counseling, and other services

to address the challenges of children in foster care; and technical assistance to Early Head Start programs to create special training and technical assistance initiatives targeted to serving children in foster care.

In addition, the Head Start reauthorization requires the Department of Health and Human Services to establish standards for Head Start agencies that take into consideration best practices with respect to children in foster care; provide funds for training of staff serving children who are abused or neglected; establish program review teams that include individuals who are knowledgeable about children in foster care; and collect data and implement research and evaluation activities to ensure that programs address the specific needs of children in foster care.⁹³

Post Secondary Educational Opportunities

Studies have reported widely varying rates of foster youths' college enrollment rates (ranging from 7 percent to 48 percent) and college graduation rates (ranging from 1 percent to 8 percent).⁹⁴ It is clear that students from foster care are greatly underrepresented in programs that offer post-secondary education and training.⁹⁵ Overall, youth in foster care are less likely than non-foster care youth to be enrolled in college preparatory classes (15 percent vs. 32 percent) even when their test scores and grades are similar.⁹⁶

Despite the low rates at which foster youth participate in post-secondary education and training programs, research has shown that children in foster care have high educational aspirations. Courtney and colleagues (2004) found in their study of youth in foster care in Illinois, Iowa, and Wisconsin that 80 percent of the youth wished to attend college or enroll in a post-secondary training program.⁹⁷ They also found that a number of factors significantly limited these youth's postsecondary access and success: significant special education needs, low reading ability, poor grades, lack of school continuity, and high school mobility. Other studies have found that placement instability further heightens the risk of school mobility for foster youth in high school, contributing to educational disruptions and underachievement, and a low likelihood of pursuing postsecondary educational or vocational programs.⁹⁸

Other factors also contribute to the lack of higher education access and poor educational and vocational outcomes experienced by youth who have spent

time in foster care. Most foster care alumni are “on their own without a net,” so concerned about basic issues such as food, shelter, finances, and health that they find it difficult to pursue higher education opportunities.⁹⁹ They often lack parental or other adult encouragement, practical knowledge about college preparatory curricula and activities, and the skills and support necessary to effectively navigate the process of college enrollment.¹⁰⁰ Discussions about postsecondary education options do not regularly occur between youth in foster care and their caregivers, and many youth, consequently, consider colleges and universities to be mysterious places where they may not feel that they can belong.¹⁰¹ High turnover rates of children’s caseworkers and other advocates further reduce the chances that these youth receive consistent college-going messages and support.¹⁰²

In recognition of these challenges, state legislatures have increasingly turned their attention to preparation and support for post-secondary educational opportunities for children and youth in foster care. In contrast to the extremely limited legislative activity in the area of early childhood development services, state legislatures across the country have enacted a broad array of statutes designed to provide youth with post secondary opportunities and financially support their continuing educational pursuits.

Preparation for Post-Secondary Education

As the 2003 NCSL report described, California enacted the Higher Education Outreach and Assistance Act for Emancipated Foster Youth in 1996, expressing legislative intent that California State University and the state community colleges provide outreach and assistance to foster youth to encourage enrollment, assist with housing issues, provide technical assistance to campuses and track retention rates of foster youth, and expanding representation on the appropriate California State University advisory councils to include at least one emancipated foster youth who is a current or former student at the university.¹⁰³

Between 2004 and 2007, nine states enacted legislation to require planning for older youth in foster care and provide other services and supports to strengthen their academic performance. Four states passed laws detailing or expanding the scope of planning efforts for youth in foster care.

- The 2004 Florida Legislature passed Senate Bill 512, requiring the child welfare agency to develop post-high school plans for foster care children in the ninth grade and conduct regular interagency case reviews for children ages 13 to 17. SB 512 also requires that youth in foster care be provided with information about the Road-to-Independence scholarship program, public assistance and independent living assessments. It mandates that the child welfare agency and the courts strive to ensure children’s successful transition to adulthood.¹⁰⁴ In 2006, the Legislature amended this statute to require that, once a child reaches age 13, the case plan must include information regarding the child’s educational and career path, based on the child’s interests and abilities.¹⁰⁵
- An Indiana law passed in 2005 requires a transitional services plan for youth who will age out of foster care, including information about education, housing, employment and health care services; help to develop problem-solving skills; and access to available federal, state and local assistance.¹⁰⁶
- A 2005 Texas law requires placement review reports for children in foster care who are age 16 or older to include, among other items, a discharge plan that identifies specific tasks to help the child make the transition from substitute care to adult living; a description of services available through the child welfare agency’s Preparation for Adult Living Program; and an evaluation of the child’s current educational placement.¹⁰⁷
- The 2006 Arizona Legislature mandated that an education case management unit be established within the child welfare agency to develop education plans for youth participating in the independent living program and to help youth graduate from high school, pass the state standardized test, apply for post-secondary financial assistance, and apply for post-secondary education.¹⁰⁸ A two-member unit began functioning in February 2007. The law appropriates an additional \$500,000 in state funds to support the program and supplement federal funds. Efforts are under way between the child welfare agency and the department of education to share data systems, facilitate outreach services

to children, and help child welfare staff with education planning.¹⁰⁹

Five states enacted legislation to expand services and supports to strengthen the academic performance of older youth in foster care.

- In 2004, Kentucky enacted legislation that requires independent living service providers to make available to youth a range of services, including counseling, educational and vocational and employment services.¹¹⁰
- California laws enacted in 2005 extend opportunities for youth to remain in foster care and be eligible for Aid to Families with Dependent Children – Foster Care (ADFC-FC) payments beyond age 18 when they are pursuing a high school equivalency certificate. These laws require county child welfare departments to provide health and education summaries to youth in care who have reached majority.¹¹¹
- In Louisiana, 2005 legislation requires the department's Office of Community Services to provide vocational testing and counseling on higher education and employment for youth in long-term foster care. The law specifies that counseling should include a minimum of three one-hour sessions annually and should help youth find part-time work while in high school to help them discover their interests and capabilities and foster a sense of independence.¹¹²
- A 2005 Texas law requires that the Texas Education Agency and the Texas Higher Education Coordinating Board develop outreach programs to ensure that high school students in foster care are aware that they are exempted from paying tuition and fees for higher education.¹¹³
- In 2007, Washington enacted legislation to create the “passport to college promise program.” This program is designed to significantly increase outreach to youth between the ages of 15 and 18 in foster care to make them aware of what higher education opportunities are available, how to apply to college, and how to apply for and obtain financial aid. A six-year pilot program was established.¹¹⁴

Financial and Other Support for Post-Secondary Education

Since 2002, the federal government and states have increased the level of financial assistance available to youth in foster care for post-secondary education and training. In 2002, Congress appropriated discretionary funding for education and training vouchers (ETVs) for foster youth within the John H. Chafee Foster Care Independence Program. In FY 2005, ETV state grants totaled \$43 million; the 50 states, Puerto Rico and the District of Columbia receive some portion of the funds.¹¹⁵

State financial support for higher education for foster care alumni also has expanded.¹¹⁶ A number of states passed laws to provide tuition waivers, college scholarships and other financial assistance to help former foster care youth attend college. Between 2004 and 2007, legislation that initiated, enhanced or expanded tuition waiver programs was enacted in eight states—Delaware, 2004; Florida, 2004 and 2006; Kansas, 2006; Louisiana, 2006; Maine, 2006; Maryland, 2007; New Hampshire, 2007; North Carolina, 2005.¹¹⁷ During the same time, eight other states—California, 2006; Florida, 2006; Illinois, 2006; Kansas 2007; Nevada, 2007; Tennessee, 2006; Vermont, 2004; Washington, 2005 and 2007—established or increased the range of higher education scholarship opportunities available for foster care alumni.¹¹⁸

In addition, efforts designed to enhance funding for post secondary opportunities for youth in foster care and foster care alumni have included state legislation that has:

- Supported enrollment in the 21st Century Scholars Program at any time before the student graduates from high school (Indiana, 2005).¹¹⁹
- Expanded the duties of an oversight committee to include assessing the need among foster youth for assistance in pursuing postsecondary education, identifying funding sources for such education, reviewing the effectiveness of activities in the state to support foster youth in pursuing such education, identifying new activities to meet statewide needs, and reviewing progress (Washington, 2005);¹²⁰

- Authorized up to 50 youth per year to remain in foster care up to age 21 to complete a post-high school academic or vocational program (Washington, 2006);¹²¹
- Established a higher education savings program for eligible children who were placed in out-of-home care by the state (Alaska, 2007).¹²²

Other Educational Protections and Benefits

Since 2003, states have enacted legislation that addresses a range of other educational issues for children and youth in foster care.

Safeguards

In 2005, the Arkansas legislature passed a law that prohibits the lowering of the grades of children in foster care because of absences from school due to a change in the child's school enrollment or because of a child's attendance at dependency-neglect court proceedings or court-ordered counseling or treatment.¹²³

Data and Accountability

In 2004, the California Legislature passed laws to increase government accountability for the educational outcomes of children in foster care by requiring that children placed in nonpublic schools be included in the state's testing system to assess and monitor their educational results.¹²⁴ In addition, the Legislature added nonpublic, nonsectarian schools to those required to develop an alternative accountability system.¹²⁵

In Texas, Senate Bill 6, enacted in 2005, requires the Health and Human Services Commission to develop an educational passport for every child in foster care that includes educational records, the child's grade-level performance, and any other relevant information.¹²⁶

Louisiana legislation enacted in 2006 requires that a plan be developed to collect a "continual participation census" to track the educational success of foster care students, including standardized test scores, high school and college graduation rates, and university and technical college acceptance and graduation rates.¹²⁷

Expanding Educational Opportunities

Finally, a number of states have taken steps to expand educational opportunities for children and youth in foster care.

- A 2005 Montana law requires the superintendent of public instruction to pay tuition for children who attend school outside their district of residence because of placement in foster care or a group home.¹²⁸
- In 2005, California revised the scope of applicable circumstances in which a child placed in a licensed children's institution or foster home does not have to attend programs operated by the local educational agency.¹²⁹ The following year, State Assembly Bill 1808 provided a process for any county office of education or consortium of county offices of education to apply to the superintendent of public instructions for grant funding to provide educational and support services for children in foster care.¹³⁰
- In 2006, Arizona appropriated \$2.5 million for a grant program to pay tuition of up to \$5,000 annually to private primary or secondary schools for the first 500 qualifying children and youth in foster care.¹³¹
- A 2006 New Hampshire law requires the Department of Education and the Department of Health and Human Services to provide educational or residential services or both to children in court-ordered residential placements in New Hampshire or another state.¹³²
- In 2007, Illinois amended the School Code regarding special education classes for children residing in orphanages, foster family homes, children's homes, or in-state housing units. The law provides school districts with reimbursement for the costs of educating students with disabilities who are placed by a state agency or the courts in residential care or whose residential placements are paid for by a state agency.¹³³

CONCLUSION

State legislation has played a critical role in promoting better communication and collaboration between child welfare agencies, education departments and other entities; increasing children's opportunities for school stability and continuity despite placement in foster care and subsequent foster placement changes; clarifying decision-making authority and strengthening educational advocacy; and enhancing the preparation and support youth receive as they explore post-secondary educational opportunities and continue education beyond high school.

In many instances, oversight committees have been established; information has been shared more readily between appropriate parties; children and youth have been allowed to remain in their schools of origin while in foster care; the timeliness of children's enrollment in school has improved; decision-making roles and responsibilities have been clarified; and youth have received guidance and financial assistance to support their post-secondary education. In addition, a number of states have developed comprehensive education fact sheets, manuals and guidebooks to translate these new laws and policies into accessible tools for advocacy and practice, ensuring that caseworkers, educators, foster parents and youth have access to the information they need.¹³⁴

Future legislative activities aimed at improving the educational outcomes of children and youth in foster care will likely focus on the following areas.

- Disseminating critical information about the educational rights of and opportunities for children in foster care through ongoing educational advocacy training for caseworkers, educators and foster parents to keep them abreast of best practice developments and new laws or policies.
- Providing adequate funding for and staffing of educational liaison positions with individuals who are well-qualified and have the necessary time and resources.
- Addressing the unique developmental and educational challenges faced by very young children in foster care.

- Funding all potential post-secondary educational degree programs for current and former foster youth (not only those at state universities or community colleges).¹³⁵
- Providing guidance and other services beyond financial aid to undergraduates from foster care to ensure youth not only enter college but also successfully complete a postsecondary degree.¹³⁶
- Addressing systemic barriers that have undermined the effectiveness of state efforts to improve the educational achievement of children in foster care, including reducing caseloads so that caseworkers have the time to get to know the children and youth on their caseloads and advocate for their best interests and educational needs; decreasing the frequency of children's placement moves, which significantly contributes to school disruptions and discontinuity; and ensuring that, when children's foster care placements must change, they are placed in their own neighborhoods and communities so they can preserve connections and remain in their schools of origin.
- Developing greater accountability and compatibility of data systems between child welfare and education agencies to better track educational outcomes for children in foster care.

The efforts detailed in this report indicate significant legislative interest in addressing key challenges to educational outcomes for children and youth in foster care. State-level legislation has improved—and will continue to improve—the educational experiences and opportunities of children and youth in foster care. It can be expected that educational issues will remain high priorities in state legislatures across the country in the years to come.

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119. 2007 IN H 1266, Chap. 168.

120. 2005 Wash. Laws, HB 1079, Chap. 93.

121. 2006 Wash. Laws, HB 2002, Chap. 266.

122. 2007 AK S 76, Chap. 58.

123. 2005 Ark. Laws, HB 1710, Act 1255.

124. 2004 Cal. Stats., AB 1858, Chap. 914.

125. 2005 Cal. Stats., AB 1261, Chap. 629.

126. 2005 Tex. Gen. Laws, SB 6, Chap. 268, Sec. 165.

127. La. Acts 2006, HCR 228.

128. 2005 Mont. Laws, HB 83, Chap. 463.

129. 2005 Cal. Stats., AB 1261, Chap. 629.

130. 2006 Cal. Stats. AB 1808, Chap. 75.

131. 2006 Ariz. Sess. Laws, SB 1164, Chap. 358.

132. 2006 N.H. Laws, HB 1648, Chap 236.

133. 2007 IL S 398, Chap. 95-313.

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- California Foster Youth Education Task Force, *California Foster Care Education Law Fact Sheets*,

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- Michigan's *2005-2006 Student Guide to Higher Education* www.abanet.org/child/rcj/education/2005_2006_Student_Guide.pdf.
- State Court Administrative Office - Family Services, Department of Human Services, and Governor's Task Force on Children's Justice, *Addressing the educational needs of children in foster care in Michigan: Resources and best practices*, www.michigan.gov/documents/dhs/Educational_Needs_Protocol_2007_188925_7.pdf.
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- Children's Administration, Washington State Department of Social and Health Services, *Social worker's practice guide to education for children and youth in foster care*, www1.dshs.wa.gov/pdf/Publications/22-1185.pdf.
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