



**OFFICE OF CHILDREN, YOUTH AND FAMILIES BULLETIN**  
**COMMONWEALTH OF PENNSYLVANIA \* DEPARTMENT OF PUBLIC WELFARE**

**NUMBER:**

3130-10-04

**ISSUE DATE:**

September 17, 2010

**EFFECTIVE DATE:**

Bulletin - Immediately  
Screen - January 1, 2012

**SUBJECT:**

Educational Stability and Continuity of Children Receiving Services from the County Children and Youth Agency (CCYA) Including the Use of an Education Screen

BY:

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**SCOPE:**

County Children and Youth Social Service Administrators  
County Children and Youth Advisory Committees  
County Children and Youth Fiscal Officers  
Private Children and Youth Social Service Agencies  
County Chief Juvenile Probation Officers  
Juvenile Court Judges' Commission  
Juvenile Court Judges

**PURPOSE:**

The primary purpose of this bulletin is to clarify the responsibilities of county children and youth agencies regarding educational stability and continuity for all children receiving services from a child welfare agency, including children in out-of-home care, as well as those receiving services in their own homes. To that end, this bulletin incorporates and supplements the information provided in the Office of Children, Youth and Families (OCYF) Special Transmittal, dated February 24, 2009, entitled "Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) herein referred to as "Fostering Connections". Secondly, this bulletin is purposed to enhance the protection of the educational rights for all children receiving services from the county children and youth agency through the introduction and mandated implementation of, an Education Screen. This bulletin rescinds and replaces OCYF Bulletin 3130-08-01 entitled "Education Stability and Continuity for Children in Substitute Care" issued October 1, 2008.

**BACKGROUND:**

The education of all children receiving children and youth services is one of the well-being factors considered by the United States Department of Health and Human Services (HHS) during the Child and Family Service Review (CFSR) process. In addition, two federal laws, the McKinney-Vento Homeless Assistance Act (42 U.S.C §§11431-11435), (McKinney-Vento), and the Fostering Connections, an amendment to Title IV-E of the federal Social Security Act, require both county child welfare agencies and local education agencies to collaborate to ensure that school changes are

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minimized, and that children in care who do change schools are promptly enrolled. See, in particular, 42 U.S.C. §§671(a)(30), 675(1)(G). Research and practice clearly demonstrate that a successful, uninterrupted educational placement promotes more successful child welfare placements, greater permanency and better life outcomes.

Assuring that the educational needs of all children involved with the child welfare system are met is an essential part of the casework process. The 2008 CFPSR conducted in Pennsylvania revealed that while Pennsylvania did well in assessing children's educational needs, an area that needed improvement was assuring that appropriate services were provided or arranged. One of the ways that this finding is being addressed is through the issuance of this bulletin and the accompanying education screen. It is the expectation that a greater emphasis will be placed on assessing the educational needs of all children being served within the child welfare system in order to improve outcomes for the children of Pennsylvania.

For many children placed outside of their own homes, moving from one home to another often involves school changes, destabilizing the educational pursuits of these children and significantly undermining academic progress. Not only do children in out-of-home care sometimes face delays in school enrollment and class disruption for various appointments, they also lose credits between transfers, causing difficulties in attaining timely diplomas.

## **DISCUSSION:**

It is incumbent on county children and youth agencies to make every effort to ensure not only that school-aged children receiving services, either in their own home or out-of-home, from the county children and youth agency are attending school, but also that they are receiving the education, special education, or remedial services they need. One way to do that is through accurate and consistent assessment and documentation of those needs.

It is also incumbent on county children and youth agencies to help all children that they serve to avoid unnecessary disruptions in their schooling. It is common practice for children in out-of-home care to be removed from school for visits, meetings, and court proceedings, thereby necessitating the loss of valuable class time. Children receiving services in their own homes are also sometimes removed from school to attend appointments and meetings. While it is true that schools cannot consider a child to be 'truant' as a result of a court-related absence, for children who already face adjustment challenges, these school removals can exacerbate feelings of isolation and discomfort.

School-age children are entitled to attend the public schools in their school district of residence as provided in 22 Pa. Code §11.11 (relating to entitlement of resident children to attend public schools). School-age is defined in 22 Pa. Code §11.12 as the period of a child's life from the earliest admission age to a school district's kindergarten program until graduation from high school or the end of the school term in which a student reaches the age of 21 years, whichever occurs first. (Note: school-age is different than compulsory school age. School-age references the period a child is ENTITLED to attend school while compulsory school age references the period a child MUST attend school or be subject to truancy proceedings for unexcused absences. Compulsory school age is defined in 22 Pa. Code §11.13 as the period of a child's life from the time the child enters school as a beginner which may be no later than at the age of eight years (six in Philadelphia), until the age of 17 or graduation from a high school, whichever occurs first. A beginner is a child who enters a school district's lowest elementary school grade that is above kindergarten. If a child is of

compulsory school age (age eight), he must attend public or private school or participate in an appropriate education program (such as homeschooling) during those years).

However, children in out-of-home care are often moved to different school districts when their living arrangement changes. Although some changes are unavoidable, federal law requires county agencies to work with local education agencies to prevent these educational disruptions whenever possible. Fostering Connections requires the child welfare agency to consider both the proximity to the child's current school and the appropriateness of the child's current educational setting when making placement decisions regarding the child. See 42 U.S.C. § 675(1)(G)(i), (relating to case plans). Additionally, Fostering Connections requires county agencies to work with school districts to ensure (1) that children remain in their original school, unless it is in their best interest to change schools; and (2) that, if they do change schools, they are immediately enrolled with all of the child's educational records provided to the new school (42 U.S.C. §675(1)(G)(ii)(iii)). In Pennsylvania, the only items required for the child to be enrolled in school are proof of age, immunization, residence, and a Parent Registration Statement.

In addition, the McKinney-Vento Act affords children who are considered "homeless," including those "awaiting foster care placement," a number of educational protections including the right to remain in the school they were attending at the time they became homeless or were placed in out of home care or their current school.

This bulletin explains these laws and how best to ensure that children in out-of-home care benefit from these "school stability" protections.

Finally, the Individuals with Disabilities Education Act (IDEA) requires that children with a disability, or who might have a disability, have active parents or other authorized persons, usually called "surrogate parents", who can make special education decisions on their behalf (20 U.S.C. 1415(b)(2)) (relating to procedural safeguards and assigning surrogate parents for children who are wards of the State). This bulletin provides guidance regarding the responsibilities of county children and youth agencies in complying with this federal requirement.

This bulletin describes the Education Screen that county children and youth agencies must use when assessing the educational needs of all children they serve. This Screen will assist county children and youth agencies in ensuring that the above rights and opportunities are realized for all children and youth served by the child welfare system.

### **POLICY AND PROCEDURES:**

As stated earlier, the Federal Child and Family Service Review (CFSR) monitors the actions taken by states to ensure that the educational needs of children are assessed and appropriate services are provided. The CFRS does not distinguish between children served in their own homes or in out-of-home care. Therefore, it is incumbent on county children and youth agencies to ensure that the educational needs of all children receiving services through the county children and youth agency are met. The Education Screen described below will assist county children and youth agencies in assessing those needs.

With the exception of requirements regarding under Fostering Connections, all provisions in this Bulletin apply both to children receiving services in their own homes, as well as those in out-of-

home care. Therefore, for a child receiving services in their own home, county children and youth agencies must comply with the requirements set forth in the following sections: central point of contact, education screen and intervals, case records, school stability related to McKinney-Vento, collaboration with local education agencies, special education decision makers and access to post-secondary education opportunities. When the rights of children receiving services in their own homes differ from those in out-of-home care, the text within each section clearly delineates these distinctions.

### **Central Point of Contact on Education:**

To emphasize the critical role that county children and youth agencies have to monitor the education of children receiving services from their agency, either in home or out of home, each children and youth administrator must identify at least one staff member to be trained in educational issues. This staff person(s) will be the Education Liaison(s) for the agency, and will be responsible for providing guidance and technical assistance to all staff. While the Education Liaison(s) may have other agency responsibilities as well, he or she must have sufficient time and opportunity to fulfill the responsibilities of the position.

OCYF will offer training opportunities to support the development of this centralization of county children and youth agency educational responsibility. In lieu of appointing an Education Liaison, a county children and youth administrator must provide documentation to OCYF how the county children and youth agency will otherwise meet the statutory and regulatory requirements clarified in this bulletin.

### **Education Screen (Screen):**

As stated above, the Education Screen (Screen) is to be used for all school-aged children served by the child welfare system. The Screen is not a diagnostic instrument or assessment but rather a tool for gathering relevant information and making critical recommendations to school districts, resource parents, placement facilities and courts to ensure that the educational needs of children receiving services from the child welfare agency are met. As education is a key component of a child's well-being, county children and youth agencies must actively ensure that children receiving their services, whether in-home or out-of-home, are receiving the educational services they need.

The Screen is designed to assist the child welfare professional to make determinations in collaboration with school districts regarding whether:

- 1) the child's updated education records are on file;
- 2) the child should remain in the same school or be moved;
- 3) the child is appropriately enrolled in the least restrictive environment and is receiving the appropriate hours of instruction;
- 4) the child is making reasonable progress toward grade promotion or graduation;
- 5) the child requires assistance preparing and planning for post-secondary education;
- 6) the child requires a special education evaluation;
- 7) the child requires different special education services;
- 8) the child requires a special education decision-maker; or
- 9) the child requires accommodations for a disability or health condition.

Child welfare professionals must also engage in any required follow-up to ensure that the child is in school, receiving appropriate services, and progressing adequately. To facilitate this process, the Screen provides a set of tools to guide child welfare professionals in working with the school districts to obtain needed services. The Screen must be completed with regard to all children receiving services from the county children and youth agency, not only those in out-of-home care. In some cases, issues identified through the Screen (such as the need to appoint a surrogate parent) should also be addressed in court proceedings.

### **Education Screen (Screen) Intervals:**

#### *Children Receiving Services in Their Own Home:*

When a family with school age children has been accepted for services by the county children and youth agency, the Screen must be completed on each school aged child in conjunction with initial development of the Family Service Plan (FSP), as well as annually thereafter. The Screen should also be completed on an as needed basis including those situations in which there are concerns that the child's educational needs are not being met, they are experiencing educational challenges, moving into a new school, etc. This provides an opportunity for child welfare professionals to review educational information related to each school-aged child and if needed, to incorporate action items related to education into the FSP.

#### *Children in Out-Of-Home Care:*

For children placed in out-of-home care, the Screen should be completed prior to the child entering care, if possible. If it is not possible, the child welfare professional should attempt to gather information including asking all education-related questions and obtaining documentation related to the areas included on the screen within the first week following placement. Completion of the actual screen should then occur within 60 days for an emergency placement or within 30 days for a non-emergency placement, which is consistent with the regulations and development of the FSP and Child's Permanency Plan (CPP). If the Screen cannot be completed prior to the child entering placement, consideration must still be given to the proximity and appropriateness of the child's home school when making placement decisions, and to the child's best interest when determining which school the child will attend. This information must be documented in the case record. The Screen must also be completed before any subsequent placement and move to a new school district. It is also recommended as quality practice to use the Screen whenever "considering" a placement change and prior to any court proceeding, in order to ensure that the agency can address any relevant inquiries from the court regarding whether or not a child's educational needs are being met. The Screen must be completed at minimum every 6 months thereafter for a child in out-of-home care.

### **Case Records:**

55 Pa. Code, §3130.43 (c)(6) and (10) (relating to family case records) requires county agencies to establish and maintain a family case record for each family accepted for service. The contents of the case record are to include educational reports and records. This requirement includes children who are receiving services in their own home, as well as those who have been removed from their homes and placed in out-of-home care. Section 3130.43 (c)(6) specifically requires that family case records for children receiving services in their own homes are to contain correspondence between agencies and individuals involved in the case, which should include local education

agencies (LEAs), commonly referred to as schools. Likewise, §3130.43 (10) specifically requires that family case records for children in out-of-home care contain current and updated information required for school enrollment, which includes proof of the child's age, residence, school immunizations and a sworn statement of the child's disciplinary record. To promote continuity of a child's educational placement, the agency must be prepared to produce the child's education records whenever a new school placement must be made. Case records must include copies of the child's current Individualized Education Program (IEP), or Service Agreement, also known as a 504 Plan, if applicable, for children with disabilities and/or medical needs that require modifications at school but who do not qualify for special education. Also, case records must include any evaluations of identified disabilities, as well as the name and address of the surrogate parent, if one has been appointed as a special education decision maker, and/or the name and address of the child's education decision maker, if not the parent or surrogate parent. These records must be obtained in a manner consistent with the family's confidentiality rights under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232(g)). For example, a school district can provide the records to the caseworker with written consent of the parent, or a student who is over age 18. The court can also order the release of school records.

Section 3130.67 (relating to placement planning) also requires the county children and youth agency to prepare an amendment to the service plan prior to placing a child, except for emergency placements and this amendment must include:

- The names and addresses of the child's educational providers;
- Their grade level performance;
- Their school records;
- Assurance that proximity to the child's current school was taken into account; and
- A record of the child's immunizations.

The family case record must also include the Child's Permanency Plan (CPP), if applicable, current and anticipated school placement, grade level and recent report cards or alternate measures of progress. Having this information readily collated and available will facilitate timely enrollments should a child move to another school district, either when initially placed in out-of-home care or when a placement changes. The information should be reviewed and updated each time a child's living arrangement changes, or for those children in out-of-home care, at the six month review if no placement change has occurred.

### **School Stability:**

As described below, maintaining school stability requires close collaboration with schools and school districts. The issue of ensuring school stability, including the collaborative efforts to arrange transportation, should also be addressed in court proceedings when placement decisions are approved or reviewed.

*All Children Being Served:*

To minimize disruption of the school day, and to help all children succeed in their school setting, child welfare professionals should attempt to avoid making appointments or scheduling meetings or court proceedings during school hours. Unless there is a compelling reason, such as the court schedule will not accommodate this consideration, child welfare professionals should arrange for the child's attendance before or after school hours, on weekends, during vacations or on in-service days. For information about allowable absences, please see: [http://www.pde.state.pa.us/k12/cwp/view.asp?A=11&QUESTION\\_ID=121159](http://www.pde.state.pa.us/k12/cwp/view.asp?A=11&QUESTION_ID=121159).

*Children in Out-of-Home Care Only:*

Federal law requires county children and youth agencies to help prevent unnecessary school changes.

**Consideration of School Stability Benefits Under the McKinney-Vento Act:**

The McKinney-Vento Act provides special protections for children who are considered homeless. These children have the right to remain in their original school unless a change is in their best interest, to have transportation to that school provided and funded by the school district, if needed, and to be enrolled in school even if they cannot provide the items usually required for school admission. In addition to free school lunches, the waiving of some fees and residency requirements for activity participation, these students are also entitled to have the services of an educational liaison from the school to assist with enrollment and obtaining records, as well as to inform them, their schools, and families about rights and procedures available under McKinney-Vento. Notably, in cases where a school district disagrees as to whether a child qualifies as homeless, that child is nonetheless entitled to immediate enrollment or to remain in his/her school of origin pending full resolution of any dispute. See PDE BEC entitled "*Education for Homeless Youth*" issued February 3, 2010 which can be found at [http://www.pennvest.state.pa.us/portal/server.pt/community/us\\_codes/7505/education\\_for\\_homeless\\_youth/507380](http://www.pennvest.state.pa.us/portal/server.pt/community/us_codes/7505/education_for_homeless_youth/507380). See also PDE BEC entitled "*Enrollment of Students*" issued January 22, 2009 which can be found at [http://www.portal.state.pa.us/portal/server.pt/community/purdon's\\_statutes/7503/enrollment\\_of\\_students/507350](http://www.portal.state.pa.us/portal/server.pt/community/purdon's_statutes/7503/enrollment_of_students/507350).

While we generally think of school stability issues in the case of children in out-of-home care, some children receiving services in their own home are also entitled to school stability protections because of their living situations and child welfare professionals should understand these protections in order to assist families. Children receiving in-home services may be "homeless" as defined in McKinney-Vento and entitled to the legal protections of school stability and immediate enrollment described in the McKinney-Vento section above because they are residing in public or private shelters, staying with a parent in a domestic violence shelter, living in a transitional housing program or living with relatives or friends due to lack of housing.

McKinney-Vento also provides school stability and enrollment protections to dependent youth who are "awaiting foster care placement." The Pennsylvania Department of Education (PDE) has defined children and youth "awaiting foster care placement" and hence entitled to all McKinney-Vento protections to include "those who live in shelters or are placed in emergency, interim or respite foster

care; evaluation or diagnostic centers or placements for the sole purpose of evaluation.” School officials and county children and youth agencies should use the following definitions to identify the living situations that would qualify children for “awaiting foster care placement”:

- shelter care – physically unrestricted facilities for temporary care (see 42 Pa. C.S. §6302 (relating to definitions));
- emergency care – residential care and supervision in a non-secure setting, not to exceed 30 days (see 55 Pa. Code §3130.37 [relating to emergency and planned temporary placement services]);
- interim care – planned temporary placement services including residential care and supervision of a child in a foster family home or twenty-four-hour out-of-home care in a non-secure facility for children not related to the provider (see 55 Pa. Code §3130.37);
- respite foster care – short-term foster placement designed to provide relief to the primary foster family responsible for the child; and
- evaluative or diagnostic centers, or placements for the sole purpose of evaluation - hospitals and other residential facilities used for evaluation and diagnosis.

This list is illustrative, but not exhaustive. If a child is otherwise “awaiting foster care placement” because the placement is not likely to become permanent, he or she may be eligible for McKinney-Vento protections. For children who qualify as “homeless” under the McKinney-Vento Act, school districts have the ultimate decision-making responsibility concerning enrollment and school stability. However, the district will need supportive information from the county children and youth agency.

Accordingly, PDE has advised that “local school officials should consult with their local county children and youth agencies whenever necessary to determine if a child meets the definition of ‘awaiting foster care placement’, including, on a case-by-case basis, whether a child who does not clearly fall into one of these categories is nevertheless a child ‘awaiting foster care placement.’” Again, refer to BEC, “Education for Homeless Youth.” Therefore, consistent with legal confidentiality considerations, it is important that county children and youth agencies work collaboratively with school districts to assist them in identifying children in this category, and to support their efforts to maintain the education stability of a child in out-of-home care. County children and youth agencies should also advise eligible children and families about their rights under the McKinney-Vento Act, and assist children and their families in contacting school personnel, including McKinney-Vento liaisons, to ensure that the child receives appropriate school placement, benefits and services. Also, while it is the school district’s responsibility to provide/fund transportation under McKinney-Vento, county children and youth agencies may assist by using Title IV-E funding, wherever possible, for this purpose.

### **Consideration of School Stability Benefits Under Fostering Connections:**

Even if a child is not eligible under McKinney-Vento, Fostering Connections requires county children and youth agencies to work with local school districts to maintain school stability for all children placed in out-of-home care including those in residential placements, by coordinating with appropriate school districts to ensure that placed children remain in their current school unless a change would be in their best interests. (42 U.S.C. 675(G)(ii)). Also refer to PDE BEC entitled “*Educational Programs for Students in "Non-Educational" Placements*” (revised May, 2010) at

[http://www.portal.state.pa.us/portal/server.pt/community/pa\\_codes/7501/educational\\_portions\\_of\\_no\\_n-educational\\_placements/507372](http://www.portal.state.pa.us/portal/server.pt/community/pa_codes/7501/educational_portions_of_no_n-educational_placements/507372). Agencies should work with local education agencies (LEA) to arrange transportation needed to help children remain in their current school and should use Title IV-E funding, whenever possible, for this purpose.

As discussed above, to determine which school is in a child's best interest, child welfare professionals should consult with the child, parents, resource parents, teachers and other school staff, and should give preference to the current school unless significant factors weigh in favor of a move. Some factors that suggest that a school move may be appropriate are: the child's new living arrangement is likely to become permanent, the move coincides with a natural transition time (vacation/holiday closure), and the child would be better served by the new school; the child's social or academic needs would be better met at the new school; a significant commute to the original school would have a negative impact on the child; or the child's safety would be compromised by remaining in the current school.

It is important for county children and youth agencies and child welfare professionals to be prepared to inform the court about the educational status and needs of the child, whether the proximity to the school was considered in recommending a planned placement, whether and/or how school stability can be maintained and if so, whether and/or how necessary transportation will be provided, and if a school change is in the child's interest, whether the child has been immediately enrolled with all school records. In Pennsylvania, the only items required for the child to be enrolled in school are proof of age, immunization, residence, and a Parent Registration Statement.

Proposed Juvenile Court Rules have been published which, if they become final, will require courts to consider these questions at every court proceeding.

### **Consideration of School Proximity in Making Placement Decisions:**

Fostering Connections requires that the county children and youth agency consider *proximity* to the child's school and the *appropriateness* of the child's educational placement when making placement decisions regarding a child (42 U.S.C. § 675(1)(G)(i)) (relating to case plans). In assessing the appropriateness of a school, child welfare professionals should consult with the child, parents, resource parents, teachers and other school staff.

The McKinney-Vento liaison for the school district will need to play a critical role in making this determination if the agency believes the child will be eligible for McKinney-Vento protections (as described below).

A school is generally appropriate if:

- the child is well-served by the curriculum, including any special education resources, vocational education, or Advanced Placement courses;
- the child is progressing at a reasonable pace (is passing courses and being promoted);
- no safety concerns weigh against the child remaining in that school; and
- the child is not experiencing any particular problems related to the school.

If the school is appropriate, county children and youth agencies should make every effort to find the child a placement in that school district or school attendance area. Consideration should be given to any appropriate kin in the child's home district attendance area, or to families suggested by the school as potential placement resources. These suggested families must either be already approved as resource parents or willing and able to complete the approval process including the requirements of the OCYF Bulletin 3140-04-05/3490-04-01 entitled "Child Placements with Emergency Caregivers".

Unless it is in the child's best interest to change schools, the county children and youth agency should make every effort, in collaboration with the school, to maintain the child in the current school even if the child has been moved to another attendance area or school district. As explained below, attention to "proximity" can ensure that the child lives close enough to the original school to make remaining in the same school possible. If the county children and youth agency, in collaboration with the school, determines that the child should remain in the same school, despite the change in the child's placement, the county children and youth agency should coordinate with the school district to ensure that necessary transportation is provided in as efficient and as cost-effective a manner as possible.

### **Collaborating with Local Education Agencies (LEA) (for Children in Out-of-Home Care):**

County children and youth agencies and child welfare professionals are responsible for ensuring that children in out-of-home care have school stability and that, when it is in a child's best interest to change schools, a child is promptly enrolled with necessary school records. However, county agencies must work together with schools in both formal and informal ways to be successful in achieving these goals. County children and youth agencies and school districts should consider developing interagency agreements (e.g. Memoranda of Understanding (MOUs)) to establish mechanisms for ensuring education stability for youth in care. MOUs or other written agreements with school districts would provide a structure for collaborative efforts, and could encompass considerations such as:

- what information, including placement parameters and time-frames, will be needed to determine eligibility for McKinney-Vento;
- how school stability will be ensured;
- how transportation will be provided and funded;
- how "best interest" school placement determinations will be made;
- which school staff will work with county staff;
- how the prompt transfer of school records will be accomplished;
- a schedule of regular meetings and/or cross-trainings;
- an agreement to share policy changes/updates; and
- any other education-related matters.

The "*Enrollment of Students*" BEC issued by PDE states that "school districts are strongly encouraged to develop policies or agreements to enable a student who is in foster care to remain in the educational program in the same school or school district even if that student is moved to a residence in another school attendance area within the district or in another school district." Even absent an interagency agreement, individual child welfare professionals must coordinate with school district staff to keep children in their current schools unless a school change is in the child's best

interest. When a change is needed, county children and youth agencies must work with the receiving school or school district to “provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.” (42 U.S.C. §675(1)(G)(ii)(II)).

### **Special Education Decision-Makers:**

#### *Children in Out-of-Home Care:*

County children and youth agencies must be vigilant to ensure that youth in care who need or who may need special education services receive the services they need. A key issue for the child welfare professional is whether the child needs an education decision-maker, other than the parent, appointed by a school district or the court. Key actions the decision-maker may need to undertake include:

- 1) requesting in writing an evaluation to determine a child’s eligibility for special education services;
- 2) requesting a re-evaluation;
- 3) requesting and participating in an Individualized Education Program (IEP) meeting; and
- 4) requesting mediation or a hearing when necessary. (Special Education is a complicated process, and for more information see the Education Law Center’s website at [www.elc-pa.org](http://www.elc-pa.org).)

The IDEA provides that the birth or adoptive parent is the special education decision-maker for a child, but, when the parent of a child in out-of-home care is deceased, inactive, cannot be located, or when the parents’ rights have been terminated, the resource parent automatically steps into this role and is authorized to make special education decisions for the child. However, the court has the authority to appoint an alternate decision-maker when in the best interest of the child such as instances when the foster parent is unwilling, unable or not best-suited to make these decisions.

Because a child in congregate care does not have a resource parent, a “surrogate parent” must be identified whenever the birth or adoptive parent is unavailable or unwilling, and the child is eligible for or needs to be evaluated for special education. When a child needs a surrogate parent, the county children and youth agency should make a request, either to the school district or the juvenile court, that a surrogate be appointed. When the whereabouts of a parent is known, **only** the court can make the appointment. When a child is in a residential placement, and there is no parent that can be located, it is the responsibility of the school district in which that placement is located to appoint a surrogate parent or the court may do so.

While the court may exercise its discretion in whom it appoints (subject to the limitation described below), the local school district may only appoint a surrogate who has knowledge and skills that ensure adequate representation of the child as required under 34 CFR 300.519(d)(2)(iii). The LEA is responsible for maintaining records regarding available surrogates who have been properly trained to meet this federal requirement and for selecting a surrogate as appropriate who can fulfill this requirement.

Whenever possible, the county children and youth agency should assist the local education agency or the court in identifying potential people who can serve as a surrogate to the child, such as a relative, a Court Appointed Special Advocate (CASA) or a prior resource parent. Under the IDEA, whether appointed by an LEA or a court, a surrogate cannot be someone who is employed by an

agency that is involved in the education or care of the child. Therefore, the surrogate decision-maker **may not** be the child's caseworker, residential staff or a representative from a county or private children and youth agency. However, the juvenile court can authorize any individual, including the child welfare professional, to consent to an **initial evaluation** of a child who is living in a congregate care facility such as a residential treatment facility or group home.

(For more details on the IDEA's requirements on surrogate parents, and the authority of courts and school districts to assign special education decision makers, see the Education Law Center website at [www.elc-pa.org](http://www.elc-pa.org))

*Children Receiving Services in Their Own Home:*

For a child receiving services in their own home, the parent remains the special education decision-maker unless a court divests the parent of those rights. If a child lives with another person who is acting as the parent and fulfilling that role, that person also remains the decision-maker unless a court divests them of this authority and appoints another person.

**Access to Postsecondary Education Opportunities:**

County children and youth agencies must ensure that youth served by the child welfare system, both in their own home and out-of-home, have the skills and opportunity to pursue post-secondary education and training. For youth age 14 or older receiving special education, services that will help the youth make the transition from school to postsecondary education and training must also be included in the transition planning component of the student's IEP (22 PA Code §14.131(a)(5)). See ELC's fact sheet on transition planning for more information at [www.elc-pa.org](http://www.elc-pa.org). Child welfare professionals should participate in independent living planning and transition planning to ensure that all appropriate transition services are provided as outlined in the Fostering Connections Special Transmittal issued by OCYF on February 24, 2009.

The county aids in the youth's educational achievement by ensuring that all Chafee-eligible youth are identified and made aware of available support services through the county and state's Independent Living Program--such as Scholastic Aptitude Test (SAT) and college application waivers, funds or programs involving college visits, mentoring programs, and information about scholarships targeted at youth in foster care. The county must also ensure that all Chafee-eligible youth are informed about the Educational and Training Grant (42 U.S.C.A. § 677 (i), (ETG)). Fostering Connections has expanded the eligibility for ETG to youth who, at age 16 or older, were adopted or entered into a permanent legal custodianship. The agency should assist the youth in filing the Free Application for Federal Student Aid (FAFSA) form by providing the required documents to ensure that any youth who was in foster care at age 13 or older, including those who are now adopted or in custodianship arrangements, has independent status for the purpose of receiving financial aid. See Higher Education Act of 1965, 20 U.S. §1087vv. Pursuant to the Department's responsibility to ensure the well-being of children in its care, this same post-secondary preparation assistance should be made available to all older youth.

Fostering Connections now requires that within the 90 days before a youth discharges from care at age 18 or older, the agency must work with the youth to create a detailed individualized transition plan that includes "specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment

services, and is as detailed as the child may elect.” (42 U.S.C. A. § 675(5)(H)). The plan must be youth-driven and must be presented to and approved by the court. Child welfare professionals should seek the involvement of representatives from the youth’s school, including, if applicable, the IEP team, the Office of Vocational Rehabilitation, and any post-secondary programs the youth is in, or interested in, in developing the plan. Because a youth’s educational success and credentials are such an important part of achieving a successful transition to adulthood, the education component of the transition plan should be significant and detailed.

Youth who have been adjudicated dependent before turning age 18 can stay in care until age 21 if they are in a program of treatment or instruction, and have requested the court to retain jurisdiction. (42 Pa. C.S.A. 6302). This extension in care can provide youth a crucial opportunity to enter and complete post-secondary training and education. Studies show that youth who stay in care are far more likely to enter post-secondary education than those who leave care at 18. As part of the required transition plan, agencies must inform eligible youth of their right to request to remain in care.

*Children in Out-of-Home Care:*

By the time a child in out-of-home care turns 16, the county must document in the case plan, and the court must determine, the independent living services, including the educational services the youth needs to help support a transition from high school to post-secondary education or training. (42 U.S.C.A. 675 (5)(c)(i)); (42 Pa.C.S.A. 6351(f)(8)). That may include services such as remedial instruction, tutoring for the SAT’s, or enrollment in local Upward Bound Programs. Additional information regarding Upward Bound Programs can be found at <http://www2.ed.gov/programs/trioupbound/index.html>.

*For more information regarding the educational rights of children in foster care, please visit Education Law Center’s website at <http://www.elc-pa.org> and Juvenile Law center’s website at [www.jlc.org](http://www.jlc.org). The websites feature helpful tips and resources for both professionals and resource parents who are working on educational service delivery to children.*

## **Child Welfare Professional's General and Special Education/Disability Accommodation Screen**

Based on the results of the 2008 Child and Family Services Review, Well-Being Outcome 2: Children receive appropriate services to meet their educational needs, was the highest rated item. Despite this, Pennsylvania youth voiced concern regarding their educational needs not being met. In addition, despite the fact that Well-Being Outcome 2 was the highest rated item during the onsite review, Pennsylvania did not achieve substantial conformity with this outcome. The Commonwealth achieved conformity in 81.6 percent of the cases reviewed, which is 13.4 percent under the national conformity standard. In addressing this situation, as part of a collaborative effort among the Department of Public Welfare, the Juvenile Law Center, the Education Law Center, as well as the University of Pittsburgh's Pennsylvania Child Welfare Training Program, this education screen and its associated tool were developed to help guide child welfare professionals in striving to improve educational outcomes for children and youth in Pennsylvania.

*Please note that the Child Welfare Professional's General and Special Education/Disability Accommodation Screen, from this point forward, will be referred to as the Education Screen. In addition, note that the Action Steps Tool for Child Welfare Professional's General and Special Education/Disability Accommodation Screen, from this point forward, will be referred to as the Action Steps Tool.*

### **Education Screen (Screen) Intervals:**

#### **Children Receiving Services in Their Own Home:**

When a family has been accepted for services by the county children and youth agency and there are school-aged children, the screen must be completed on each school aged child in conjunction with initial development of the Family Service Plan (FSP), as well as annually thereafter. The screen should also be completed on an as needed basis including those situations in which there are concerns that the child's educational needs are not being met, they are experiencing educational challenges, moving into a new school, etc. This provides an opportunity for child welfare professionals to review educational information related to each school-aged child and if needed, to incorporate action items related to education into the FSP.

#### **Children in Out-Of-Home Care:**

For children placed in out-of-home care, the screen should be completed prior to the child entering care, if possible. If this is not possible, the child welfare professional should attempt to gather information including asking all education-related questions and obtaining paperwork and documentation related to the areas included on the screen within the first week following placement. Completion of the actual screen should then occur within 30 days for an emergency placement or within 60 days for a non-emergency placement, which is consistent with the regulations and development of the

FSP. If the screen is not able to be completed prior to the child entering placement, consideration should still be given to the proximity and appropriateness of the child remaining in their home school when making placement decisions. The screen must also be completed before any subsequent placement and move to a new school district. It is also recommended as good practice to use the screen whenever “considering” a placement change and prior to any court proceeding, in order to ensure that the agency can address any relevant inquiries from the court regarding whether or not a child’s educational needs are being met. The screen must be completed at minimum every six-months thereafter for a child in out-of-home care.

### **How to Use the Education Screen:**

Child welfare professionals should review the child/youth’s education records, and gather information through discussions with the child/youth, his/her caregivers, and his/her educators. **The Education Screen will be most accurately completed when both record reviews and discussions are conducted.** Both portions of the Education Screen (*i.e.* General Education Screen and Special Education/Disability Accommodation Screen) are to be completed for all children/youth, including those children/youth in special education and regular education. Child welfare professionals should review each statement in the Education Screen and check the *Referral/Action Needed* box for each statement that is accurate. If the statement is inaccurate or inapplicable, no action is necessary.

*For any Referral/Action Needed box checked in the Education Screen, reference the respective section/portion of the Action Steps Tool. The Action Steps Tool immediately follows the Education Screen on pages 6-21 and is designed to assist child welfare professionals in addressing areas of concern.*

### **Note on Parental Involvement:**

The Action Steps Tool accompanying the Education Screen identifies steps that child welfare professionals can take to assist children/youth in getting the educational services that they need and deserve. However, as always, *child welfare professionals should help promote positive family interactions by empowering caregivers to take these steps directly on behalf of their child/youth whenever possible.*

Complete this screen for **all children/youth** in special education **and** regular education. **For each box checked** on this page, proceed to the **Action Steps Tool for Child Welfare Professional's General and Special Education/Disability Accommodation Screen** for that item.

Student's Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Student ID Number: \_\_\_\_\_

Education Decision-Maker: \_\_\_\_\_

School Grade: \_\_\_\_\_

Special Education Decision-Maker: \_\_\_\_\_

Current School: \_\_\_\_\_

<b>Action Needed</b>	<b>1. EDUCATION RECORDS</b>
<input type="checkbox"/>	A. Neither a written parental consent form nor judicial order is on file authorizing the caseworker to receive the student's education records.
<input type="checkbox"/>	B. Up-to-date education records are not in the student's file.
<b>Action Needed</b>	<b>2. EDUCATION STABILITY/PROMPT ENROLLMENT</b>
<input type="checkbox"/>	A. Child/youth is being placed in out-of-home care or the placement is being changed <u>and</u> the child welfare professional is not able to locate a placement in the same school district or attendance area.
<input type="checkbox"/>	B. Student is not enrolled in school with necessary school records.
<b>Action Needed</b>	<b>3. SPECIAL SCHOOL SETTINGS/SITUATIONS</b>
<input type="checkbox"/>	A. Child is not attending regular public school (which can include a public charter school) or private school.
<input type="checkbox"/>	B. Student receives less than 5.5 hours per day of instruction if in secondary school, or 5 hours if in elementary school.
<input type="checkbox"/>	C. Student has not received assistance in accessing Advanced Placement (AP) or honors courses, vocational training, or extra-curricular activities as appropriate.
<b>Action Needed</b>	<b>4. PROGRESS TOWARD PROMOTION OR GRADUATION</b>
<input type="checkbox"/>	A. Student does not attend school regularly.
<input type="checkbox"/>	B. Student is not placed at age/developmentally appropriate grade level.
<input type="checkbox"/>	C. Student has not received all full or partial credits earned.
<input type="checkbox"/>	D. Student's academic progress is inadequate. Child may need remedial services.



<b>Action Needed</b>	<b>7. ADEQUACY OF SPECIAL EDUCATION SERVICES (Complete this section only for student with an existing IEP)</b>
<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>	<p>A. Student might need additional or different services and supports, or is not in the Least Restrictive Environment (e.g., student is not making good academic or behavioral progress or could be in regular class but is in separate class).</p> <p>B. Student is age 14 or older and does not have a transition plan in his/her IEP (a plan of services to help the student achieve post-school outcomes).</p> <p>C. Student's evaluation for special education is older than three years (or older than two years for a student with mental retardation).</p>
<b>Action Needed</b>	<b>8. NEED FOR SPECIAL EDUCATION DECISION-MAKER (This individual cannot be a child welfare professional except when appointed by a court to request and consent to an initial evaluation)</b>
<input type="checkbox"/>	<p>A. Student's parent is not available and/or is not actively representing the student in the special education process and there is no person with whom the child is living whom is acting as a parent or resource parent or a surrogate parent appointed by a school district or court to make special education decisions for the child.</p>
<b>Referral Needed</b>	<b>9. NEED FOR ACCOMMODATIONS FOR A DISABILITY OR PHYSICAL OR BEHAVIORAL HEALTH CONDITION</b>
<input type="checkbox"/>  <input type="checkbox"/>	<p>A. Student needs accommodations in the school setting for a disability or physical or behavioral health condition (e.g., needs sign-language interpreter, access to medications, special seating in classroom, etc.)</p> <p>B. Student needs supports in school for behavioral health or substance abuse.</p>

**Caseworker Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Supervisor Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

# **Action Steps Tool for Child Welfare Professional's General and Special Education/Disability Accommodation Screen**

## **How to Use this Tool:**

Specific guidance is offered regarding each issue identified in the Education Screen as requiring action. For each issue, a child welfare professional should attempt to resolve the matter by talking to the appropriate representative of the school district. The County Education Liaison(s) should be consulted if the matter cannot be resolved despite such efforts. Use the space provided to identify action steps taken. It may be necessary to take more than one action step to address some of the problems identified in the screen.

## **Note on Confidentiality and Parental Involvement:**

Throughout this document, contacting a child/youth's school district is recommended. Whenever possible, the child/youth's parent should be directly supported in making these contacts. Additionally, when contacting the school district, and if the parent has decision-making authority, the child welfare professional should first gain the parent's written consent. If the parent will not provide written consent, the child welfare professional can ask the court for an order when it is in the child/youth's best interest and after supervisory consultation. It is also advised that the child welfare professional consult directly with older youth to determine when the youth wants the child welfare professional to contact the school, and to involve the youth in his or her education planning and advocacy.

## **1. EDUCATION RECORDS**

- **If Box A was checked (because no parental consent or judicial order are on file):**
  - Attempts should first be made to engage the family and obtain written parental consent. Parental consent can be provided by a birth or adoptive parent, a guardian, or an individual acting as a parent in the absence of a parent. A resource parent cannot give consent for school records to be released. If obtaining parental consent is not possible, a judicial order should be obtained. Without one of these, education records cannot legally be obtained from the school district.
  
- **If Box B was checked (because education records are not on file):**
  - Contact the school to obtain education records using the parental consent. The child/youth's **records on file should include, at a minimum:**
    - Documents necessary for school enrollment, including: proof of the child/youth's age, residence, school immunizations and a sworn statement of the student's disciplinary record.

- Records relating to the child/youth’s academic progress, such as: the child/youth’s current and anticipated school placement, grade-level and recent report cards or alternate measures of progress.
- Records relating to a child/youth’s special needs, such as: current Individualized Education Program (IEP) or Service Agreement (for children/youth with disabilities or medical needs that require modifications at school but who do not qualify for special education).

These education records should be updated at least every six months and all new records added to the file.

**ACTIONS TAKEN:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Child welfare professional was unable to resolve issue. Referred to County Education Liaison on \_\_\_\_\_ [Insert date.]**

**2. EDUCATION STABILITY/PROMPT ENROLLMENT**

- **If Box A was checked (because the child/youth is moving to a new school district or attendance area):**
  - If continued attendance at the current school is appropriate and in the child/youth’s best interest, try to keep the child/youth at the same school. This rule also applies if a child is in a residential setting. For further information on this determination, see the Office of Children, Youth and Families (OCYF) Bulletin 3130-10-04, titled *Educational Stability and Continuity of Children Receiving Services from the County Children and Youth Agency (CCYA) Including the Use of an Education Screen.*
  - *The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), requires child welfare professionals to have a plan for ensuring the educational stability of the child while placed in out-of-home care, including –*
    - (i) assurances that the placement of the child placed in out-of-home care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and*
    - (ii)(I) an assurance that the child welfare agency has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of placement.*

- If the child/youth is “awaiting foster care placement” under McKinney-Vento, contact the school district’s McKinney-Vento Homeless Liaison. If problems arise, the McKinney-Vento Regional Coordinator may be contacted. The McKinney-Vento Homeless Liaison will be able to provide this contact information. If the Regional Coordinator disagrees with the recommendation or decision, any involved party may contact the McKinney-Vento State Coordinator. Also, remember that if it is alleged that the child/youth is homeless, the child/youth has the legal right to remain in the same school or the school he or she was attending at the time of placement or to enroll in the school the parent chooses until any dispute is fully resolved. Contact information for McKinney-Vento Homeless Liaisons and coordinators can be obtained at <http://homeless.center-school.org/index.cfm?pageid=2895>.
    - Even if the child/youth is not “awaiting foster care placement” under McKinney-Vento, work with the school district to keep the child/youth in the same school pursuant to the Fostering Connections to Success and Increasing Adoptions Act of 2008. The Fostering Connections to Success and Increasing Adoptions Act requires that child welfare professionals collaborate with school districts to ensure that when a student changes placement, the student shall remain in his or her current school unless this is not in their best interest. The school district can be advised that such efforts are “strongly encouraged” by the Pennsylvania Department of Education (PDE) pursuant to the *Enrollment of Students* Basic Education Circular (BEC) issued January 22, 2009, at [http://www.portal.state.pa.us/portal/server.pt/community/purdon%27s\\_statutes/7503/enrollment\\_of\\_students/507350](http://www.portal.state.pa.us/portal/server.pt/community/purdon%27s_statutes/7503/enrollment_of_students/507350) and *24 P.S. §13-1301 – §13-1306*.
    - If the child/youth must be moved to another school placement, consider aligning the move with the new school year or other natural break in the school program to avoid disruption.
    - For further information on this determination, see OCYF Bulletin 3130-10-04, titled *Educational Stability and Continuity of Children Receiving Services from the County Children and Youth Agency (CCYA) Including the Use of an Education Screen*.
- **If Box B was checked (because the child/youth is not enrolled with all school records):**
  - Help the child/youth to enroll as quickly as possible. Any person with “care and control” of the child/youth can enroll the student – including a child welfare professional, resource parent or juvenile probation officer.
    - Help the child to enroll promptly by gathering required documents including: (1) proof of age (includes baptismal certificate, prior school records or notarized statement from caregivers or another relative indicating date of birth); (2) immunization records (written statement or verbal assurance with records to follow from prior school or medical office

is sufficient); (3) proof of resource parent’s residency and that the child is living with that resource parent; and (4) a sworn statement of the child/youth’s disciplinary record to the best of the person’s knowledge regarding offenses involving drugs, alcohol, weapons, infliction of injury or violence on school property. The school cannot require any other records for school enrollment.

- If the child/youth is “awaiting foster care placement” under McKinney-Vento or is homeless for other reasons, ensure that the school enrolls the child/youth immediately, even if required documents are not available.
- For more information on enrollment rules and trouble-shooting, see *Learn the Rules for Enrolling a Child in School and the Steps You Can Take if you Run into a Problem* as well as the *Sample Enrollment Letter* at <http://www.resourceedpa.org/learnmore.php>. Additionally, you may access the *Enrollment of Students* Basic Education Circular (BEC) 24 P.S. §13-1301 – §13-1306 at [http://www.portal.state.pa.us/portal/server.pt/community/purdon's\\_statutes/7503/enrollment\\_of\\_students/507350](http://www.portal.state.pa.us/portal/server.pt/community/purdon's_statutes/7503/enrollment_of_students/507350).

**ACTIONS TAKEN:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Child welfare professional was unable to resolve issue.**
- Referred to County Education Liaison on \_\_\_\_\_ [Insert date.]**
- Referred to McKinney-Vento Homeless Liaison on \_\_\_\_\_ [Insert date.]**
- Referred to McKinney-Vento Regional Coordinator on \_\_\_\_\_ [Insert date.]**
- Referred to McKinney-Vento State Coordinator on \_\_\_\_\_ [Insert date.]**

**3. SPECIAL SCHOOL SETTINGS/SITUATIONS**

- **If Box A was checked (because the child/youth is not in regular school):**
  - Collaborate with the school district to ensure that the child/youth is placed in an appropriate educational setting in the least restrictive environment that meets the child/youth’s needs.
    - Alternative Education Setting: A school district can only place a student (grades 6th-12th) in an alternative school if: (1) the student violated a rule of that school district; or (2) the student seeking to enroll is currently expelled for a weapons offense. When the expulsion for the weapons offense ends, the student must be allowed to return to regular school. Except for students currently expelled for a weapons offense, students are

entitled to written notice of the possible transfer and an informal hearing prior to being placed in an alternative education program. Every alternative education program must review each student at the end of each semester to see if the student is ready to return to regular school, and child welfare professionals should check with the school as to when the semester ends in order to provide letters of support and advocate for the child/youth's return to regular education at that time. Note: Alternative education programs must offer at least 20 hours of academic instruction per week plus 2.5 hours of counseling. See the *Alternative Education for Disruptive Youth* BEC at

[http://www.portal.state.pa.us/portal/server.pt/community/purdon%27s\\_statutes/7503/alternative\\_education\\_for\\_disruptive\\_youth/507342](http://www.portal.state.pa.us/portal/server.pt/community/purdon%27s_statutes/7503/alternative_education_for_disruptive_youth/507342).

- On-site Schools in Residential Programs: A student can only be required to attend school on-site in a residential program if the court has ordered the child to attend school at the facility, or the parent or other person legally authorized to make education decisions for the child has agreed to the placement or there is a student-specific reason relating to the safety and well-being of the child. Otherwise, the student has either the right to continued attendance at his/her prior school or to attend the public school in the school district where the facility is located (called a "host" school district.) See *24 P.S. 13-1306*. The "host" school district must admit the child into its regular schools unless the child is court-committed, a current expulsion permits placement in an alternative education program or there is an agreed-upon IEP or 504 Plan that requires education outside regular school buildings. A residential facility cannot require the child/youth to attend the on-site school as a condition of placement at the facility. Unless remaining in the alternative or on-site school is in the child/youth's best interest, advocate for the student to attend regular school. Talk with the school principals from the alternative and regular schools to see whether attending regular school will be possible. See the PDE BEC titled *Educational Programs for Students in "Non-Educational" Placements*, revised May, 2010 at [http://www.portal.state.pa.us/portal/server.pt/community/pa\\_codes/7501/educational\\_portions\\_of\\_non-educational\\_placements/507372](http://www.portal.state.pa.us/portal/server.pt/community/pa_codes/7501/educational_portions_of_non-educational_placements/507372).
- Homebound Instruction: A school district cannot require the student to receive "homebound instruction" unless the student's medical condition necessitates such instruction. Approval for temporary homebound instruction must be renewed every three months. See *22 Pa. Code §11.25*.
- Partial Hospitalization Programs (PHP): The school district where the student is currently living is responsible for providing or ensuring the provision of educational services to a student who is attending a PHP. School districts are permitted to educate these students through homebound instruction. However, a child/youth placed in a PHP may not receive homebound instruction for a period in excess of 30 calendar days.

In addition, the school district where the child/youth is living must ensure that a child enrolled in a PHP has access to instruction designed to permit a successful transition back into the child/youth's school of residence without significant interruption in instruction in core academic subjects. If a PHP is providing educational services to the child/youth, the PHP must work with the school district to develop an education plan that will include the educational goals for the student while the student is enrolled in the PHP. In addition, the PHP must work with the school district to develop a transition plan that will ensure successful integration into the school the child/youth will attend when discharged. A PHP should notify the school district of residence of the child/youth's transfer to and from the PHP unless a parent objects. Consideration should be given as to whether the child/youth can attend a regular public school for at least part of the day in order to ensure that the child/youth is educated in the least restrictive environment. See 34 C.F.R. §§300.114-.116.

- Cyber Schooling: Cyber charter schools offer “distance learning technology” to students in their homes. Cyber schools receive their charters directly from the Pennsylvania Department of Education rather than a local school board and the school where the child resides pays the tuition. Cyber schools also receive special education funding to meet the needs of students eligible for special education. Generally, cyber charter schools are **not** a good option for a child who lacks strong support from a caregiver or other involved adult. In fact, in order to qualify to attend a cyber charter school, a child or youth must have an adult to supervise their participation, be involved in daily homework and communicate with the cyber charter school on a consistent basis. Before seeking to enroll a child/youth in a cyber school, consider whether the student can attend a regular school, as the regular school will offer more options and greater support, as well as the opportunity for interaction with similar age peers. Cyber schools may be an option for a child who has been expelled – some but not all cyber schools will accept expelled students.
- Private Schools: Other private schools – e.g., parochial schools that the caregiver chooses – are permissible education placements. If uncertain whether the school placement is appropriate, speak with the County Education Liaison.
- Homeschooling: A child/youth can only be taught at home by a properly qualified private tutor, or through a “home education program” in which the parent, guardian or person having legal custody of the student provides the resident school district with all necessary paperwork and complies with state requirements regarding subjects taught and hours of instruction. For more information on these requirements, see the *Home Education Program* BEC at [http://www.portal.state.pa.us/portal/server.pt/community/purdon%27s\\_statutes/7503/home\\_education\\_program/507313](http://www.portal.state.pa.us/portal/server.pt/community/purdon%27s_statutes/7503/home_education_program/507313).

- Students with Disabilities:
  - ✓ A school district cannot require a student with a disability to go to a program or school just for students with disabilities unless it is determined to be necessary for that child as a result of the IEP process. A child with a disability has a right to be educated in the Least Restrictive Environment (LRE).
  - ✓ A student with a disability has special rights in school disciplinary proceedings. A suspension of more than 10 days in a row or more than 15 total days in the school year is considered a “change in placement.” If the change in placement is not approved by the child/youth’s special education decision-maker, the student can still be transferred to an alternative education program for up to 45 days for an offense involving weapons, drugs or serious bodily injury to a person in the school setting. In all other cases, the IEP team must decide within 10 days of the proposed discipline whether the student’s conduct was a “manifestation” of the student’s disability (i.e., was caused by or had a substantial relationship to the student’s disability or the school’s failure to follow the child/youth’s IEP). If the IEP Team decides that the conduct was connected to the student’s disability, the student cannot be transferred, suspended or expelled and the school must conduct a functional behavioral assessment of the student if an assessment was not previously conducted, or amend an existing plan to address the behavior.
  - ✓ Whenever a student’s behavior impedes the student’s learning or that of others, the school district must develop a positive behavioral support plan based on a Functional Behavioral Assessment (FBA) that uses positive behavioral techniques.
  - ✓ Following a child/youth’s referral to law enforcement officials, for students with behavior plans, the FBA must be updated and a positive support plan is required.

For more information on school discipline for children with disabilities, go to <http://www.elc-pa.org/pubs/downloads%202009/School%20Discipline%20for%20Children%20w-Disabilities%204-15-09.pdf>

See also *Avoiding Discipline Problems and Limitations on Use of Restraints* available at <http://www.elc-pa.org/pubs/downloads%202009/Avoiding%20Discipline%20Problems%20PBS-Limits%20on%20Restraints%204-14-09.pdf>.

- **If Box B was checked (because the child/youth receives fewer than the required hours of daily instruction):**
  - Talk to the principal to advocate for the student to receive full-time instruction. Students are generally entitled to receive full-day instruction of 5.5 hours for high school students and 5 hours for elementary school students. Alternative education programs must offer at least 20 hours of academic instruction per week plus 2.5 hours of counseling. Students receiving “homebound instruction” may receive fewer hours, but a school cannot require a child/youth to receive homebound instruction as opposed to being educated in a regular school setting unless the student’s medical condition necessitates receiving homebound instruction.
  - Suspended or Expelled Students: The expelling school district maintains the responsibility to provide some form of education to the expelled student, under the age of 17, unless the student relocates to another school district. If a student with a disability is expelled, the student is still entitled to (1) an education that will enable the student to continue to participate in the general curriculum and to progress towards meeting IEP goals, and (2) a FBA and behavior interventions, services, and modifications to prevent recurrence of the misbehavior. A student who has been expelled from one school district is still entitled to attend regular school in another district to which they have moved unless currently expelled for a weapons offense (and in that situation, the student should be offered an alternative education program). All students facing expulsion (removal greater than 10 days) are entitled to a formal hearing. A student facing suspension greater than 3 days is entitled to an informal hearing and written notice of the grounds for the suspension. For a suspension of less than 3 days, anyone may ask for a meeting with the principal, on behalf of the student (Note: Suspensions of less than 3 days do not qualify for hearings).

For more information on school discipline, see *School Discipline in Pennsylvania*: <http://www.elc-pa.org/pubs/downloads%202009/SchoolDisciplineinPA11-09.pdf> or download ELC’s manual *Fairness in Discipline in Pennsylvania* at <http://www.elc-pa.org/pubs/downloads%202009/FairnessInDiscipline9-09.pdf>.

- **If Box C was checked (because the child/youth’s talents or interests are not identified or addressed):**
  - Work with the student to identify his or her skills and interests, and contact the school to help meet the student’s needs. Work with the school, school counselor, regular or special education teacher or director, to see whether the child/youth qualifies for a gifted program, Advanced Placement (AP) courses, vocational education or relevant extra-curricular activities. The school may be able to provide aptitude or vocational testing. Remember that the IEP for a child/youth with a disability who is 14 or older should contain a transition plan that can include these items.

**ACTIONS TAKEN:** \_\_\_\_\_  
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**Child welfare professional was unable to resolve issue. Referred to County Education Liaison on \_\_\_\_\_ [Insert date.]**

**4. PROGRESS TOWARD PROMOTION OR GRADUATION**

- **If Box A was checked (because the child/youth is truant)**
  - Make every effort to keep the child/youth in school and avoid referrals to courts or juvenile justice systems to address the issue. Innovative solutions that respond to a child/youth’s emotional, psychological and physical, and family needs should be emphasized. The family may contact the school guidance counselor or home and school visitor to explore possible avenues such as an evaluation for special educational needs, counseling services for frequently truant youth or youth at risk of dropping out of school, including, but not limited to, family counseling and other school-based and community-based interventions. For a child/youth with a disability, consider solutions to truancy such as behavioral support plans as part of the IEP process. Caregivers and children/youth should not be penalized when absences from school result from homelessness or moves between placements.
    - For more information on enrollment rules and trouble-shooting, see *Learn the Rules for Enrolling a Child in School and the Steps you can Take if you Run into a Problem*, and *Sample Enrollment Letter* at <http://www.resourceedpa.org/learnmore.php> and *Enrollment of Students Basic Education Circular (BEC) and 24 P.S. §13-1301-§13-1306*. For more information on truancy, see *Compulsory Attendance and Truancy Elimination Plan BEC* at <http://www.patruancytoolkit.info/providers/291/BEC-CompulsoryAttendance.pdf> and *24 P.S. §13-1327*.
- **If Box B was checked (because the child/youth was not placed in an appropriate grade level):**
  - Review the student’s courses to ensure that he or she is placed in level-appropriate classes. Speak with the school’s guidance counselor or principal to discuss the appropriate grade level for the child in light of their age, educational background, experiences and ability. Consider testing the child to determine the appropriate grade placement. Also, consider whether the student could be placed in an age-appropriate grade while completing coursework from a prior grade.

- **If Box C was checked (because child/youth has insufficient credits):**
  - Speak with the school’s guidance counselor to address additional credits the student might have earned. Review with the family and the school all courses the student took and ensure that the school accurately counted the student’s credits and partial-credits. Also, ensure that the school recognizes coursework substantially similar to the district’s curriculum. Per 22 Pa. Code § 4.74, Pennsylvania regulations provide that credit granted by a public school “shall be accepted by all public schools and institutions in this Commonwealth upon the transfer of a student.”
  - If necessary, discuss the availability of credit recovery programs at the school.
  
- **If Box D was checked (because the child/youth might need remedial services):**
  - Speak with the school’s guidance counselor about available tutoring and other remedial programs during and after school. Ask whether Title I remedial services are available at the school for this child/youth. Also, alert the school if the child/youth awaits placement under the McKinney-Vento Homeless Assistance Act, as this might help to secure remedial services. As always, remember to address the external factors that might affect a child/youth’s school performance.
  - Consider whether the child/youth needs support as an English Language Learner (ELL)
  
- **If Box E was checked (because youth needs a diploma):**
  - Contact the school district to advocate for the youth to receive the diploma, unless the youth with an IEP could benefit from additional educational services to meet IEP goals and is willing to stay in school. If necessary, encourage the present school district to contact the prior school district or facility to assess whether credits accrued will satisfy the current school’s graduation requirements. If the current school district cannot issue a diploma, determine whether a prior school district can. A youth with an IEP who completes his/her IEP program to the satisfaction of the IEP team must receive a diploma from his/her resident school district.

**ACTIONS TAKEN:** \_\_\_\_\_  
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**Child welfare professional was unable to resolve issue. Referred to County Education Liaison on \_\_\_\_\_ [Insert date.]**

## 5. PREPARATION FOR POSTSECONDARY EDUCATION

- **If Box A was checked (because no postsecondary planning has occurred):**

- Assist the student in postsecondary plans. Steps include helping the youth identify colleges, vocational programs, or other postsecondary opportunities through aptitude and vocational interest surveys, and helping the youth identify necessary first steps (e.g., aptitude and vocational interest surveys, visiting campuses, filling in applications, signing up for entrance exams and preparatory courses).

OR

- If the youth is not interested in postsecondary education, help him or her to develop the necessary life and career skills. Identify the appropriate training through aptitude and vocational interest surveys.
- Work with the youth to develop a detailed transition plan at least 90 days before a youth discharges from care at age 18 or older. This plan must include detailed and specific options regarding education as well as vocational or workforce training as applicable. The transition plan must be youth-driven and should be presented to and approved by the court. Child welfare professionals should seek the involvement of representatives from the youth's school, including, if applicable, the IEP team, the Office of Vocational Rehabilitation, and any postsecondary programs the youth is in, or in which the youth is interested. The plan should also include credentials as well as credits earned. In addition, the plan should document coursework that needs to be included to earn a diploma.
- If the youth has an IEP and is 14 or older, make sure that the youth has a transition plan that is comprehensive and that includes all necessary transition services.
- Encourage youth to continue in care to expand postsecondary opportunities. If a youth has been adjudicated dependent before turning age 18, he/she can stay in care until age 21 if they are participating in a program of treatment or instruction and have requested the court to retain jurisdiction. This extension in care can provide youth a crucial opportunity to enter and complete postsecondary training and education. Studies show that youth who stay in care are far more likely to enter postsecondary education than those who leave care at 18. As part of the required transition plan, agencies must inform eligible youth of their right to request to remain in care.

- **If Box B was checked (because youth needs information about financial resources):**

- Assist the student in identifying and accessing necessary financial resources. Possible sources include the Chafee Education Training Grant (ETG) program, college scholarships, remaining in care under a board extension until age 21, completing the Free Application for Federal Student Aid (FAFSA)

and other state and private grant applications as well as identifying him/herself as financially independent to obtain consideration for full funding. Consult with your county's Independent Living Coordinator regarding available resources.

**ACTIONS TAKEN:** \_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

**Child welfare professional was unable to resolve issue. Referred to County Education Liaison on \_\_\_\_\_ [Insert date.]**

**6. NEED FOR SPECIAL EDUCATION EVALUATION**

- **If any boxes in this section were checked, AT LEAST one of the following will need to be completed. Some children/youth will need both.**
  - **A referral for an initial evaluation for special education services.**
    - Request the student's parent or other special education decision-maker (a person acting as a parent with whom the child is living, a resource parent if there is no active parent available, or a surrogate parent appointed by a school district or by the court to make special education decisions) to ask the school district for a *Permission to Evaluate Form (PTE)* which can be downloaded at <http://www.pattan.net/files/Forms/English/PtECon-ANN070108.pdf>. The parent or other special education decision-maker requesting the PTE should then sign and return the form to the school district. (Note the timeline for completing the evaluation of 60 calendar days minus the summer does not start until the PTE has been signed and returned by the special education decision-maker);

OR

- If the school district cannot locate the parent after making reasonable efforts, or the parent's rights are terminated, and the child/youth is not living with a resource parent, or the child is placed in an institutional setting and the parent can be found but is not responsive, ask the judge to appoint someone to request and consent to an initial evaluation. The judge *can* appoint the child welfare professional to make this request and provide consent to the initial evaluation but only for this limited purpose. The child welfare professional cannot be the special education decision-maker following this initial process. Therefore, make sure that the school district or the court appoints a "surrogate parent" as quickly as possible. This individual must be one who does not work for an agency that is involved in the education or care of the child. See section eight for

additional information on special education decision-makers for all other decisions.

- For more information on this process, see *The Right to Special Education in Pennsylvania: A Guide for Parents and Advocates* at [http://www.elc-pa.org/pubs/pubs\\_disabilities.html](http://www.elc-pa.org/pubs/pubs_disabilities.html).
- **Another action to meet the child/youth's needs.**
  - For example, consider whether the child/youth might need behavioral health services or other supports instead of, or in addition to, special education services. Review section four, box B and section nine for some possible options.

**ACTION TAKEN:**

- **Describe actions taken toward a referral for a special education evaluation:**

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- **Describe other actions taken:** *(If no special education evaluation referral was made, explain why a referral was not appropriate.)* \_\_\_\_\_

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- Child welfare professional was unable to resolve issue. Referred to County Education Liaison on \_\_\_\_\_ [Insert date.]**

**7. ADEQUACY OF SPECIAL EDUCATION SERVICES**

- **If Box A or B were checked (because the child/youth might need supports or a transition plan):**
  - Request the student's parent or other special education decision-maker (a person acting as a parent with whom the child is living, a resource parent if there is no active parent available, or a surrogate parent appointed by a school district or by the court to make special education decisions for the child) to contact the school district and convene an IEP Team meeting to revise the IEP to address the student's lack of progress, to ensure that the student is in the Least Restrictive Environment, or to develop a transition plan for the IEP for a youth over age 14. When developing a transition plan, consider whether the student might benefit from a vocational program or an Area Vocational Technical School (AVTS) and whether an outside agency, such as the Office of Vocational Rehabilitation (OVR) or the County Office of Mental Health or Mental Retardation should be invited to the meeting.

However, the IEP should not be delayed because a non-school entity has failed to participate.

- **If Box C was checked (because the child/youth needs a re-evaluation):**
  - Request a parent or other special education decision-maker (a person acting as a parent with whom the child is living, a resource parent if there is no active parent available, or a surrogate parent appointed by a school district or by the court to make special education decisions for the child) to request a re-evaluation, and, if necessary, an independent evaluation.
  - For more information on this process, see *The Right to Special Education in Pennsylvania: A Guide for Parents and Advocates* at [http://www.elc-pa.org/pubs/pubs\\_disabilities.html](http://www.elc-pa.org/pubs/pubs_disabilities.html).

**ACTIONS TAKEN:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Child welfare professional was unable to resolve issue. Referred to County Education Liaison on \_\_\_\_\_ [Insert date.]**

**8. NEED FOR A SPECIAL EDUCATION DECISION-MAKER**

- **If this Box was checked:**
  - Work to engage the parent or, if the parent is not actively involved, the resource parent as the special education decision-maker. Under the Individuals with Disabilities Education Act (IDEA), a birth or adoptive parent who is active in the child/youth's education is presumed to be the special education decision-maker unless a court has taken away the parent's right to make education decision for the child/youth. If there is no active parent, the special education decision-maker may be a person in whose home the child/youth is living who is acting as a parent, or, if neither is available, a resource parent. If a child/youth does not have a parent, a person with whom the child/youth is living, or a resource parent, the school district should appoint a surrogate parent within 30 days. A court can at any time appoint a person to act as the child /youth's special education decision-maker when this is in the student's best interests. An individual appointed by a court for this purpose is the only person who can make special education decisions for the child. **REMEMBER:** Unless the person has been appointed by a Judge to consent to the initial evaluation for a child, neither a child welfare professional nor any person employed by an agency involved in the care or education of the child can make special education decisions for a child.

- If engaging the parent or another special education decision-maker is not possible, (e.g., parental rights have been terminated or the parent cannot be located or the resource parent is unable or unwilling to perform this role), identify an individual to recommend as the surrogate parent or education guardian to the court or school. Request an appointment in one of the following ways:
  - Request that the school district appoint a surrogate parent within 30 days if (1) the school, after reasonable efforts, cannot locate a parent; and (2) there is no resource parent to fill this role; or (3) the child/youth is an unaccompanied homeless youth/child.

OR

- Request that a family court Judge appoint a surrogate parent or education guardian. Even if there is a parent or resource parent available, a court can always appoint an alternative special education decision-maker if doing so is in the child/youth's best interest.
- For more information, see *Guide to Special Education Decision-Making for Children in Out-of-Home Care* at <http://www.resourceedpa.org/learnmore.php> or *Who Can Make Special Education Decisions for a Child with a Disability in Out of Home Care in Pennsylvania?* at <http://www.elc-pa.org/pubs/downloads/english/fos-Special%20Education%20and%20Children%20in%20Out%20of%20Home%20Care%207-08.pdf>.

**ACTION TAKEN:**

- Child welfare professional recommended the following individual to the court/school.** Unless the person has been appointed by a court to consent to an initial evaluation, *a child welfare professional or other person employed by an agency involved in the education or care of the child cannot be the special education decision-maker.*

Insert person's name below as well as his/her relationship to the child or youth:

\_\_\_\_\_

- Child welfare professional was unable to resolve issue. Referred to County Education Liaison on \_\_\_\_\_ [Insert date.]**

**9. NEED FOR ACCOMMODATIONS FOR A DISABILITY OR PHYSICAL OR BEHAVIORAL HEALTH CONDITION**

- **If Box A was checked (because the child/youth needs accommodations):**
  - Contact the school to arrange for a meeting to develop an “accommodations plan” also known as a “504 Plan,” “Chapter 15 Agreement” or “Service Agreement.”
- **If Box B was checked (because the child/youth needs supports for behavioral health or substance abuse):**
  - Work with the student’s caregiver to make a referral to the Student Assistance Program (SAP), the behavioral health system, or to contact the school to identify other behavioral health services that might be available. School guidance counselors can help to identify resources.

**ACTIONS TAKEN:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Child welfare professional was unable to resolve issue. Referred to County Education Liaison on \_\_\_\_\_ [Insert date.]**

**Caseworker Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Supervisor Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_