

Improving Access to Education for Court-Involved Children

By Katherine Burdick
September 23, 2013

With the start of the school year, the debate about public education has centered on how schools will be funded in Philadelphia and other cities in dire circumstances. Sometimes overlooked during these school-reform conversations are the specialized education needs of particularly vulnerable student populations, including the tens of thousands of children who live in foster care or juvenile justice residential institutions across the country.

On any given day, more than 3,000 youth in dependent care in Pennsylvania reside in congregate care settings. These youth are removed from their homes, often due to no fault of their own. Once placed in the child welfare or juvenile justice system, they face obstacles such as delays in school enrollment, multiple school changes, and placement in inappropriate and overly restrictive schools. These barriers to academic success put these youth at great disadvantage as they grow up and make the transition to adulthood.

Despite the fact that these youth are among the most educationally vulnerable, they receive little attention in federal or state law. Without targeted attention and broader public awareness, these youth will continue to struggle academically and fall farther behind as they are bounced into and between facilities and deprived of the educational opportunities they deserve.

For these reasons, Greenberg Traurig has supported an Equal Justice Works fellowship at the Juvenile Law Center to address the educational needs of children placed in child welfare and juvenile justice institutions (such as detention centers, group homes and residential treatment facilities). Through this fellowship, we have worked to remove barriers to education success for these youth. Two examples follow:

- **Providing youth active, involved adults to make education decisions:** All children need a consistent adult to ensure they stay on track in school. From signing field trip permission slips, to making sure children who have to change schools are in the correct classes, to enforcing children's rights to appropriate special-education services — active parents drive the education process for their children.

Some children in foster care or the juvenile justice system are fortunate to have biological or adoptive parents who continue to support their education while the child is in the system. Other children in the child welfare system may have a foster parent who can serve this role. But children placed in residential settings often have no adult in their lives who can act as a parent for education purposes. This exacerbates the educational challenges these youth face, and makes it more likely they will fall through the cracks. Fortunately, federal law helps protect children with disabilities in particular. The Individuals with Disabilities Education Act (IDEA) has long recognized the critical need for children with disabilities to

Reprinted with permission from the September 23, 2013 edition of The Legal Intelligencer © 2013 ALM Media Properties, LLC. All rights reserved. Further duplication without permission is prohibited. For information, contact 877-257-3382, reprints@alm.com, or visit www.almreprints.com.

have an authorized, active education decision-maker. IDEA requires school districts (and authorizes courts) to promptly appoint "surrogate parents" when there is no parent, guardian or foster parent to make education decisions for a child who is or may be eligible for special education. In addition, the Pennsylvania Supreme Court recently placed the commonwealth at the forefront of this issue nationwide, joining California, which was the first state to directly address this topic. The Supreme Court adopted Juvenile Court Procedural Rules that require family court judges to appoint educational decision-makers for all students in the dependency or delinquency system who need them. Nevertheless, many children who lack an authorized decision-maker continue to go unidentified.

The Juvenile Law Center, in partnership with the Education Law Center, has worked to raise awareness of this issue and to ensure enforcement of children's rights to surrogate parents. Most recently, the Education Law Center and Juvenile Law Center filed a complaint with the state Bureau of Special Education on behalf of a class of students represented by a young woman in foster care in Philadelphia who had no education decision-maker for several years. She bounced between multiple residential placements, hospitalizations and school districts, much like the thousands of other students placed through the child welfare system in residential facilities in Pennsylvania.

In response to the complaint, the Pennsylvania Department of Education agreed to issue policy guidance and hold trainings statewide to clarify school districts' obligations, and committed to better monitoring school districts on this issue. Finally, the department directed the School District of Philadelphia to review the files of all children in foster care in the city, and those who are placed in residential settings within the district, to ensure that each child has an appropriate adult serving as the child's special-education decision-maker.

• **Advocating for credit transfer, graduation planning and statewide diplomas to ensure that youth can graduate on time:** Youth in the foster care and juvenile justice system are highly mobile. For example, in 2011, over 60 percent of youth in care in Pennsylvania for more than 24 months had at least three living placements. Too often, changing homes means changing schools. This leads to a host of academic problems.

One of the most common complaints we hear is that youth have not received full credit for the coursework they have done. This common challenge arises because records from the previous school may be incomplete, delayed, or lost entirely; youth may change schools mid-semester and therefore receive no credit for coursework they completed earlier in the term; or the new school district may have different academic requirements and therefore the student may have the correct number of credits but still be unable to graduate on time for failure to complete a language or other course required by the new school. As a result, students who think they are in the 12th grade may be forced to make up freshman courses, or told they have to repeat a grade entirely. Some students — especially those who were already behind — feel so hopeless and frustrated with this situation that they forgo a high school diploma and get a GED, or drop out entirely.

Students placed in residential settings are most at-risk to lose out on academic credits. Although state law gives these students the right to attend public school in the district where the facility is located, these children are often automatically placed in "on-grounds" schools that may be privately-licensed schools and therefore not subject to the same accountability and curriculum requirements as public schools.

When these students return to their home district, they may find they have earned no academic credit while in placement because state regulations only require public schools to accept credits earned at other public schools.

To address this issue, the Juvenile Law Center and Education Law Center are currently working to educate state lawmakers and promote legislation that would make it easier for system-involved youth who change schools to receive credit for work they have done, and gain access to a course waiver or state diploma, allowing them to stay on track to graduate.



Katherine Burdick is a Juvenile Law Center attorney and Equal Justice Works fellow (sponsored by Greenberg Traurig). She works to advance and enforce the education rights of youth placed in residential settings through the foster care or juvenile justice systems.