

CHAPTER 3: EDUCATION & GETTING TO GRADUATION

Introduction: You deserve a great education, and getting a good education is important to your future! Sometimes when you are in foster care, you face barriers to educational success. This chapter gives you information on your rights and how to advocate for yourself to make sure you get an excellent education that gets you ready for higher education, training, and a career.

I'm in foster care. Where will I go to school?

- **You have a right to stay in the school you attended before you entered placement or changed your living placement.** Three different federal laws are meant to protect school stability for youth in care: the McKinney-Vento Homeless Assistance Act,¹ the Fostering Connections to Success and Increasing Adoptions Act,² and the Every Student Succeeds Act.³
- **The court should ensure that you have stability in your education and that you are enrolled in your school of origin, unless doing so is not in your best interests.**⁴ The court can order that you be enrolled in another school if it meets your needs.⁵
- **Your opinion on the right school for you should be considered.** Speak up about the school you want to attend to your caseworker, lawyer, and in court. You should also participate in a meeting called a “Best Interest Determination” (BID) conference which is held by school districts to decide your school placement. Make sure your lawyer knows about this meeting too.

How do I get help with transportation to keep attending my school?

- The child welfare agency is responsible for working with school districts to arrange transportation for you and putting it in place quickly so you do not miss any school time.
- Each child welfare agency has an Education Liaison to help you if you have questions about school placement, enrollment, and transportation. Find your liaison here.⁶

What happens if I have to start at a new school when I enter foster care or change placements?

- If you need to attend a new school, you can enroll and start attending school **immediately**.⁷
- Immediate enrollment means that you can enroll and begin attending class, even if you do not have all the required documents and records when it is time to start school.
- Talk to the school guidance counselor about your courses and what credits you need to graduate. Make sure that you get credit for any course work you did in your old school.

My placement has an on-grounds school. Do I have to go to that school?

- **Not necessarily.** If you are placed in a group home or any residential facility, you have a right to attend the neighborhood public.
- **The only exceptions to this rule are:**
 1. A judge has specifically required you to go to the on-grounds school.
 2. You are placed in the on-grounds school or another school based on your Individualized Education Plan (IEP). For the on-grounds school to be in your IEP, all members of your IEP team, including you and your Education Decision-Maker, need to agree that the school meet your educational needs.

Who can help me enroll in school?

- A foster parent, guardian, caseworker, the education liaison, and your lawyer can help you enroll in school.

Does the school need to know that I am in foster care or why I am in care?

- The school does NOT need to know why you are in foster care. However, in most cases the school will know that you are in foster care because this is part of proving residency and billing tuition to the school district where your biological parents live.
- Whether or not you want to share more information about your circumstances and who you share it with is up to you. If you choose to share information with a school social worker or nurse, they should not share this private information with other school staff.

What do I do if I am having trouble with enrolling in school?

- Contact your caseworker, lawyer, and education liaison and ask for help.
- If they are not able to help you, you can file a complaint with the School Services Unit at the Pennsylvania Department of Education. Call the Pennsylvania Department of Education at (717) 787-4869 and ask them how to file a formal complaint.

Can I participate in extracurricular activities at school?

- Yes. You have a right to participate in age-appropriate activities to the same extent as your peers who are not in foster care.⁸ This includes extracurricular activities in and related to school.
- You do not need to go to court or get the permission of a caseworker to participate in activities. Your foster parent, kinship caregiver, or a designated staff person at a group home or SIL program can give you permission to participate in these activities.
- At each permanency review hearing, the judge should ask about whether you are involved in activities, including activities in school. If you are facing barriers to participating in activities at school or anywhere else, bring this up in court so that any problems can be addressed.
- Ask the education liaison to help you with accessing extracurricular activities and paying for activity fees. Your caseworker and resource parent should help you figure out how to pay for activities if there is a cost.

How long can I attend school?

- As of 2020-21 school year, students must attend school until they turn age 18.⁹ This is the “compulsory school age.” There are some limited exceptions to this requirement, including that a youth who is 16 or older, is regularly engaged in useful and lawful employment or service during the time the public schools are in session, and who holds an employment certificate may be exempted. [24 p.s. §13-1330].
- **You have right to attend school until you graduate or until age 21.** Some students need more time to complete high school, so take the time you need to graduate. It can help you prepare for college, training, or employment.

I dropped out of school but now I want to go back. How do I get back in school?

- You have a right to enroll or re-enroll at the public school in the district where you are living or in a charter school until age 21 or until you graduate.
- If you dropped out of high school and are interested in receiving a high school diploma, or are in high school but having difficulty with traditional education, you have options for non-traditional schooling, such as attending an alternative high school program or obtaining a General Equivalency Diploma (GED).
- Ask your caseworker, lawyer, and child welfare education liaison to help you re-enroll in school or get help in finding alternative programs.

What is an education decision maker and why would I need one?

- An education decision maker makes decisions regarding your education, including things like:
 - signing permission slips;
 - attending parent-teacher conferences;
 - school changes;
 - protecting your rights in school discipline proceedings;
 - monitoring your educational progress;
 - and making sure you get the services you need to succeed, including remedial services and special education services.
- **Your parent is usually your education decision maker, even if you are in foster care.** If your parent is unavailable, a foster parent will have this role.
- **The court can appoint someone to be your “Educational Decision Maker” (EDM) if your parent or foster parent is unable to fill the role or is doing something the court thinks is not in your best interest.**¹⁰ An EDM makes decisions only regarding your education.
- **Your education decision maker should be an advocate for you on all education issues.** They should advocate for you in school and at court review hearings. They should also meet with you, get to know you, and get your views on the educational decisions that are made on your behalf.

Are my education records confidential?

- Yes. Your parent or education decision maker gets to decide if anyone gets to see your educational records until you turn 18.
- Your caseworker also can have access to your records and should keep track of your educational progress and make sure your records are in the family case file.
- Once you are 18, YOU decide who can see your education records. Schools must get your permission to share your education records with another person or educational institution outside the school district or charter school.
- You also have the right to correct inaccuracies in your education records. This includes the right to request that your school change your name and gender marker on your records if you feel they are incorrect, misleading, or violate your privacy. You can also correct your records if the number of unexcused absences or school discipline records are incorrect.

What happens to my credits when I change schools?

- When you change schools, your new school should accept credits you earned at any other public school in Pennsylvania.¹¹ However, there is no statewide system for credit transfer.
- Talk to your caseworker, lawyer, and the child welfare education liaison to make sure your credits are counted at your new school so that you can stay on track and graduate on time.
- School superintendents can waive graduation requirements for students who experience extenuating circumstances, including frequent school moves.¹² Ask someone at your school, such as a guidance counselor or teacher, to request that the school waive, or make an exception to, its graduation requirements.

What is an alternative school and when can students be placed in them?

- There are different types of “alternative” schools. For example, an “accelerated school” is a school designed for students who have not been successful in a traditional school and permits students to earn credits at a faster pace. An “alternative education for disruptive youth” (AEDY) program is a *temporary* school disciplinary placement, and there are important protections that limit who may be placed in these programs and the length of time students should remain in them.¹³
 - **You have a right to a hearing before being transferred to any alternative school.**¹⁴
 - **If you are transferred to an AEDY education program, you have a right to progress reviews, at least every semester.** Ask to be part of the review and advocate for yourself. After 45 days, you should be discharged from the AEDY program and return to your neighborhood school.
 - **No student can be transferred to an AEDY program without an informal hearing where the school must show that the youth is a “disruptive student.”** The law defines disruptive students to include: students who pose a threat to the safety of the staff or other students; students who repeatedly violate school policy and rules; display or use of drugs at school; or persistent in misconduct that would merit suspension or expulsion.
 - **The school must notify the student’s parent or guardian in writing about the hearing.** You can have your parents/guardian or anyone you want to speak on your behalf attend the hearing.
 - **Inform your lawyer about the hearing so they can attend and help with your advocacy.** At the hearing, try to present as much positive

information as you can about your behavior and anything else that you think may show that you are able to stay in your community school safely.

- No student with a disability can be placed in an AEDY program without the school holding a “manifestation determination” review to determine whether the student’s conduct was related to or the result of a disability or the school’s failure to follow the student’s IEP.¹⁵
- If you are an English learner or a student with a disability, you cannot be referred to any “unapproved” AEDY program or a program that cannot meet your educational needs.¹⁶

Can I be placed in an AEDY program because I am in foster care, leaving a residential placement, or leaving a juvenile justice facility?

- **No.** You can only be placed in an AEDY program if there is a hearing that shows that you meet the law’s definition of a “disruptive student.”
- If you are student with a disability or English learner, you cannot be referred to any “unapproved” AEDY program or a program that cannot meet your educational needs.

What’s the difference between a suspension and an expulsion?

- A suspension is when you are removed from school for fewer than ten days.
- **An expulsion is when you are removed from school for ten or more days.**

Where can I get help with questions about school discipline?

- School discipline is a very complicated area of the law—you should know your rights and get the help you need. There are many protections for students that ensure that suspensions or expulsions are done fairly and do not discriminate based on race, gender, or disability status.

Expulsion

- You have a right to a formal hearing before removing from you from school for more than ten days, unless it is an emergency.¹⁷
 - To qualify as an emergency: (1) it must not be possible to hold a formal hearing within ten days, and (2) an informal hearing determined that you are a threat to the health, welfare or safety of others.
 - BUT, even if you are excluded on this emergency basis, you can’t be expelled for more than 15 days unless: (1) a formal hearing is held or (2) everyone agrees otherwise.¹⁸

- If you are 18 or under, you have a right to still receive educational services during your exclusion, through either an AEDY program or home study.¹⁹

What about weapon related expulsions? What counts as a weapon?

- There are special rules about expulsions related to possessing a weapon on school grounds, at a school activity, or while going to and from school. School law defines weapons very broadly; it can include things like box cutters and pen knives.

Does school discipline work differently if I receive special education services?

- There are different rules for expulsion for students with disabilities who receive special education services. If you are receiving special education services and are disciplined in school, you may have additional protections.
- Make sure to talk to your caseworker, lawyer, and education liaison so they can get you help.

What are the graduation requirements in Pennsylvania?

- The state requires that students earn 21 credits to graduate:²⁰
 - 4 in English
 - 3 in Math
 - 3 in Science
 - 3 in Social Studies
 - 2 in Arts or Humanities
 - 1 in Health and Physical Education
 - 5 in courses approved for credit towards graduation by the school district.
- School districts can set additional local graduation requirements, so check with your school district to make sure you are on track for graduation.
- A school administrator can waive graduation requirements for students who face “extenuating circumstances,” including family hardships and frequent transfers.²¹

How can I find out more about alternatives to a high school diploma like the General Equivalency Diploma (GED), the HiSet exam and others?

- Check out this section²² of the Pennsylvania Department of Education’s website for information on this topic.

I am receiving special education services. Can I go to college?

- **YES!** A transition plan must be included in your IEP starting at age 14.²³
- If your goal is to go to college, make sure you include that as a transition goal in your IEP so that you can get the services you need to achieve that goal. (See Chapter 6: Disabilities)

How is the court involved in making sure all my educational needs are met?

- At each court hearing, the judge should ask about whether you have school stability, whether you are in school, whether or not your educational needs are being met, and if you are making progress in your educational program.²⁴ The judge should identify any educational needs that you have and the plan for how those needs will be met.²⁵ The judge can order that actions be taken and services are provided to help you deal with any problems or challenges you are facing or to get the help you need.
- If you are facing challenges with your education, let your caseworker and lawyer know. Make sure you also tell the court. The court can order that an action be taken or a service be provided to you.

¹ See 42 U.S.C.A. § 11432(g)(3)(i) (West 2016) (school stability for youth who are homeless or unaccompanied). Schools also have an obligation to help homeless youth transfer and receive credit from former schools that they have attended. See *id.* § 11432(g)(1)(F)(ii).

² See 42 U.S.C.A. § 675(1)(G) (West 2016).

³ See 20 U.S.C.A. § 6311(g)(1)(E) (West 2019).

⁴ See 237 PA. CODE §§ 1148(A)-(B) (2018).

⁵ See 237 PA. CODE § 1148(C) (2018).

⁶ *County Children and Youth Agency (CCYA) Education Liaison Directory*, CTR. FOR SCHS. AND CMTYS., <https://directory.center-school.org/fostercare/ccyaeducation/display/type/county> (last visited June 4, 2020)

⁷ See 42 U.S.C.A. 675(1)(G)(ii)(II) (West 2018).

⁸ See 11 PA. STAT. § 2642 et seq. (2015).

⁹ 24 PA. STAT. § 13-1326 (2019) (In Pennsylvania, the new compulsory school age is ages 8-18 and takes effect in the school year beginning in 2020-2021).

¹⁰ 237 PA. CODE § 1147 (2018).

¹¹ See 22 PA. CODE § 4.74(c) (2008) (“Credit granted by a public school in this Commonwealth shall be accepted by all public schools and institutions in this Commonwealth upon the transfer of a student.”).

¹² See 22 PA. CODE § 4.51(d).

¹³ 24 PA. STAT. § 19-1901-C(1) (2016) (“Alternative education program”). See also Pa. Dep’t of Educ., *Alternative Education for Disruptive Youth* (Nov. 18, 2019), <https://www.education.pa.gov/Policy-Funding/BECS/Purdons/Pages/Alternative-Education-for-Disruptive-Youth.aspx>.

¹⁴ See ALTERNATIVE EDUCATION FOR DISRUPTIVE YOUTH, *supra* note xiii.

¹⁵ 34 C.F.R. §§ 300.530-300.536 (2006). See also 22 PA. CODE § 14.133 (2008).

¹⁶ See ALTERNATIVE EDUCATION FOR DISRUPTIVE YOUTH, *supra* note xiii.

¹⁷ See 22 PA. CODE § 12.6(b)(2) (2005).

¹⁸ See 22 PA. CODE §§ 12.6(c)-(d) (2005).

¹⁹ See *id.*

²⁰ See 22 PA. CODE § 57.31(a) (1988).

²¹ 22 PA. CODE § 4.51(d) (2014).

²² *High School Equivalency/Commonwealth Secondary School Diploma*, PA. DEP'T OF EDUC., <https://www.education.pa.gov/Postsecondary-Adult/GED%20and%20Commonwealth%20Secondary%20School%20Diploma/Pages/default.aspx> (last visited June 4, 2020)

²³ See 20 U.S.C.A. § 1414 (d)(1)(A)(i)(VII) (West 2016); 34 C.F.R. § 300.43 (“transition services”); 22 PA. CODE § 14.131(a)(5) (2008) (In addition to the requirements of federal law, the IEP of each student with a disability must include “for students who are 14 years of age or older, a transition plan that includes appropriate measurable postsecondary goals related to training, education, employment and, when appropriate, independent living skills.”).

²⁴ See 237 PA. CODE § 1608(D)(1)(k)(vi) (2018).

²⁵ 237 PA. CODE § 1608 (D)(1)(l).