

# CHAPTER 1: RIGHTS RELATED TO FAMILY & PERMANENCY

Introduction: Foster care is meant to be temporary; all efforts should be made so you can safely go home with your family. If you cannot go home, all efforts should be made to place you with other family members, a permanent guardian, or an adoptive family, who is able to provide you support as you become an adult and whom you can rely on. You deserve permanency and family and the support of family is so important as you make the transition to adulthood. This Chapter gives you information on the rights you have to be with and in contact with your family and the rights you have and services you should receive to help you be with family.

## I. Understanding Permanency and Permanency Goals

### What is permanency?

- Put simply, “permanency” means family. It refers to family relationships that are supportive, legally recognized, and meant to last a lifetime.
- The term “permanency” is often used to refer to the final outcome of a dependency case, such as reunification, adoption, or legal guardianship.
- The concept of permanency, however, is much broader. It includes both “legal permanency” (a permanent family relationship recognized by the law) and “relational permanency” (lifelong and permanent connections with people you care about and can count on).

### Do I have a permanency goal?

- Yes. Federal law requires that every youth in foster care have a permanency goal and plan within one year of being removed from their family and Pennsylvania law requires that a permanency plan be developed within six months of entering foster care.<sup>1</sup>
- Every six months, the court must review the permanency goal and plan until permanency is achieved.<sup>2</sup>

### What are the different permanency goals?<sup>3</sup>

Permanency goals include:

- Returning to the family you were removed from (reunification);
- Adoption;
- Guardianship, often called in Pennsylvania Permanent Legal Custodianship (PLC);
- Placement with a relative; or
- Another Planned Permanency Living Arrangement (APPLA).

## What is reunification or return to parents?

- Reunification is when a youth returns to their family. Generally, reunification is the first goal. **You and your family have the right to services and supports from the child welfare agency to help you return home, permanently and safely.**
- If your permanency goal is reunification, family visits should be occurring frequently, usually every week.
- The supports and services provided depend on the individual needs of a family. Some examples of supports and services available to help with reunification are:
  - Education and training,
  - Employment,
  - Help getting housing,
  - Mental health services,
  - Budgeting/financial planning,
  - Parenting classes, and
  - Drug and alcohol services.

**You should be told why you are in care and what it will take so that you can return to your family. Ask your caseworker or lawyer if you do not know.**

**If there are services or supports that you think would help with reunification, you should share your views.**

## What is termination of parental rights (TPR)?<sup>4</sup>

- TPR is when the court legally ends a parent's rights and privileges to their child. Some examples of parental rights are custody, contact, and decision making.
- Both federal and state law require that the child welfare agency file for termination of parental rights when a child has been in foster care 15 of the most recent 22 months.<sup>5</sup> But there are some exceptions to this requirement, like if you are being cared for by a relative or if your family has not been provided the services they need to reunify.
- **TPR is a complicated process, so you should ask as many questions as you have to your caseworker and lawyer to make sure you understand what is happening and what it means for your future.**
- When parental rights are terminated, the agency has legal custody of you and the responsibility to find you people who can become your family.
- Ideally, an adoptive family will be identified before TPR, but it's not required.

## What is adoption?

- Adoption is a way of providing the security, permanency and a family when it is not possible to return home.

- When you are adopted, the people who adopt you are your parents under the law as if you were born to them.
- Adoption is a legal process which transfers parental rights and responsibility from either the child's birth parents or the agency to the adoptive parents.
- Adoption is the next most permanent, and preferred option to reunification.
- Before you can be adopted, the rights of your biological parents must be terminated.
- If you are adopted your birth certificate will be updated. The people who adopt you will have their names included as the names of your parents. You can decide if you want to change your last name, but you do not have to change it.<sup>6</sup>

### **Does what I think about adoption and my permanency plan matter?**

- **Yes.**
- The court must consult with you and hear what you think about the permanency plan that you have, including the permanency plan of adoption.<sup>7</sup>
- In addition, youth age 12 and older must consent to being adopted.<sup>8</sup>
- Even if you are under 12, the court will listen to your wishes to determine whether being adopted will be in your best interest.<sup>9</sup>

### **Can I be adopted at any age?**

- Yes! You can be adopted at any age.<sup>10</sup>
- **You are never too old to be adopted.** Ever. Everybody needs a committed, supportive and loving family.
- If you want to be adopted or just want to learn more, let your caseworker, lawyer, and the judge know so that efforts can be made to find the right adoptive family for you. What adoption can look like is as different as what families look like.

### **Are there any special procedures for adoption if I am age 18 or older? Is it easier?**

- You can be adopted after you turn age 18 and the process is a little easier.
- When you are age 18, only your consent and the agreement of the people adopting you are needed.
- You do not have to go through a TPR process when you are adopted as an adult, but the adoption will result in your adoptive parents being your legal parents. Your biological parents will not keep any legal rights.

### **If I'm adopted and am under age 18, can I still have a relationship with my family?**

- Sometimes. After an adoption, your adoptive parents have the right to decide whom you have contact with.<sup>11</sup>

- Pennsylvania law allows a legally enforceable contract (called post-adoption contact agreement or PACA) that can protect your right to contact and communication with your family.<sup>12</sup> See below for more information on what a PACA is.

### **What is a post-adoption contact agreement (PACA)?**

- A PACA is an agreement that the court approves that allows a youth who is adopted to have continued contact with members of his or her birth family after adoption if the terms described below are met.<sup>13</sup> Once a PACA is agreed to and is approved by the court, the court can enforce it.<sup>14</sup> That means the court can hold all people who made the agreement to the terms of the agreement.<sup>15</sup>

### **Who must agree to the PACA?**

- The youth if they are age 12 or older.<sup>16</sup>
- Your adoptive parents.<sup>17</sup>
- Your birth relatives.<sup>18</sup>

If you are 12 or older you, your adoptive parents and your birth relatives who you want to have contact with must consent to the voluntary post-adoption agreement. Afterwards, the court will review the agreement, and once “entered” by the court, it can be enforced legally.<sup>19</sup>

### **What types of contact can be in a PACA?**

- There are different types of contact that can be included, such as:
  - Mail/letters,
  - Photos/videos,
  - Phone calls,
  - Emails, and
  - Visits, etc.
- In addition to the types of contact, the location, manner, length, and frequency can also be included.<sup>20</sup>

### **Who are birth relatives under a PACA?**

- Birth relatives are immediate relatives.<sup>21</sup> Examples include:
  - Parents,
  - Grandparents,
  - Stepparents,
  - Siblings, and
  - Aunts or uncles.
- You can enter one agreement that covers all the relatives you want to have contact with or you can have separate agreements with each family member.

- Family, in this context, does not include extended family such as cousins or “fictive kin” (this term is used to refer to friends who are so close you consider them family). You should ask your adoptive family about having contact with these people as well even if they are not part of the PACA.

### **How long does a PACA last?**

- A PACA lasts until you turn 18 and become a legal adult, but the court can decide to extend until you are age 21 if you are in agreement.
- Once you turn 18, you can make all decisions about who you wish to contact, including members of your biological family.

### **Can I change the terms of my PACA?**

- After adoption, you or your adoptive parents can choose to change any of the terms of the PACA. However, you need to get those changes approved by the court.<sup>22</sup>
- **If you are over 12 and you want to change the terms of the agreement, you have the right to ask (called “petition”) the court to change the agreement.<sup>23</sup>**

### **Are there any materials for youth that describe the PACA?**

- Yes. This brochure<sup>24</sup> has been developed for youth.

### **If I’m adopted and am over age 18, can I still have a relationship and contact with my birth family?**

- Yes. After you turn 18 however, you get to make the decisions about who you have contact with.

### **What are adoption subsidies?**

- A subsidy is financial assistance—money your adoptive family can receive to help take care of you.<sup>25</sup>
- An adoption subsidy can last until age 18 if you were adopted before turning age 13, and can last until you are 21 years old if you were adopted at age 13 or older.<sup>26</sup>

### **What is permanent legal guardianship?**

- Permanent legal guardianship (PLG) is another way of providing the security, permanency and love of a family when it is not possible to return home.<sup>27</sup>
- Similar to adoption, PLG transfers custody from the agency to a safe and permanent home and guardian(s) for you.

- After a PLC, your permanent legal guardian has the right to make decisions on your behalf.
- Unlike adoptions, your parents' rights do not need to be terminated for PLC.
- If your parents' rights have not been terminated, they can still visit, as long as it's in your best interest and safe. The court can approve a plan for visitation.
- If your parent is later able to take care of you, he or she can petition the court for custody.

### **Who can be a permanent legal custodian?**

- A PLC should be someone who is committed to caring for you as you grow up and providing the love, care, support, and resources that a parent would. The court needs to approve the PLC. Some (but not all) examples include:
  - Current or former foster parent,
  - Grandparent,
  - Sibling,
  - Aunt/uncle,
  - Family friend,
  - Teacher,
  - Mentor, and
  - Godparent.

### **What is a subsidized legal custodianship?**

- Sometimes your PLC can receive financial help to help take care of you. This called subsidized permanent legal custodianship or SPLC (often pronounced "spluck").
- If you were age 13 or older when the agreement for the subsidy was finalized, it may last until you are 21 as long as the established requirements are met.<sup>28</sup>

### **What is placement with a relative?**

- This is a permanency plan for when you are placed with relatives. But for this permanency plan, you would stay in the system, have a caseworker, and still go to court.
- If returning to your family, adoption, or PLC are not possible, this would be a permanency plan to consider.<sup>29</sup>
- "Relatives" for this permanency plan includes people who are related to you by blood<sup>30</sup> and people who are defined as "kin." In Pennsylvania, kin means a Godparent or someone who has a significant, positive relationship with you or your family.<sup>31</sup> If you are Native American, it also includes a member of your tribe. They must be at least 21 years old and be able to keep you safe and meet your needs.<sup>32</sup>

### Important Rights You and Your Relatives Have

- ✓ When you first come into care, the agency is obligated to notify your relatives that you have come into care and explain to them how they can help you and your family, including options to become a foster parent or a permanency resource for you.<sup>33</sup>
- ✓ The child welfare agency should be looking for family and kin for you as soon as you come into care, and should continue to do family finding at least once each year.<sup>34</sup>
- ✓ If you are removed from your family, the child welfare agency must give first consideration to your relatives or kin for your placement.<sup>35</sup>
- ✓ If your relative meets all the same licensing requirements as a foster care provider, your relative can receive financial help to take care of you as a “kinship care provider.”

Let your caseworker, attorney and judge know if there is someone that YOU consider family and would want to live with or spend time with.

### What is another planned permanent living arrangement (APPLA)?

- APPLA stands for Another Planned Permanent Living Arrangement and can only be used after all other plans (reunification, adoption, permanent legal custody, and placement with a relative) have been tried and not achieved.
- If your plan is APPLA, there must be a description of the plan in place to provide you a stable place to live, the services you need to meet your needs and goals, and the relationships that you have with people, including caring adults and people you consider family and kin. If all these pieces are not in place for you, the agency must do work to make these things possible.
- APPLA is the least referred plan for youth because it relies on relationship stability.
- APPLA can only be your permanency plan if you are age 16 or older.<sup>36</sup>
- At every court hearing, the agency must explain at least two things to the judge: the compelling reasons why other permanency options are not right for you,<sup>37</sup> and the intensive, ongoing efforts to find a more permanent option. (See Chapter 1, Section II: Getting to Permanency—Services and Supports to Achieve Family and Supportive Connections)
- If APPLA is being considered as your goal, the county agency must identify at least one significant connection with a supportive adult who will be involved in your life as you get older and leave the child welfare system.<sup>38</sup> This should be someone who is not a caseworker or is paid to be part of your care.
- If your permanency plan is APPLA, it can change over time. If reunification, adoption, PLC, or placement with relative become a good fit for you, your permanency plan should change.
- **You have the right to services to help you achieve permanency and help you find and maintain life-long connections.**<sup>39</sup>

**The Permanency Pact** has ideas for the different types of supportive relationships you may want and need as you transition out of care. The Pact provides a place where you and the person you choose to have this relationship with can record the commitment you are making to each other to remain in each other's lives.

### **How are my permanency goals determined?**

- State and federal law describe an order of legal preference for permanency goals. Generally, the first, most preferred goal is for you to return to your family.
- Permanency hearings are an important part of determining permanency goals. The court will hold a permanency hearing every six months after you enter foster care and have these hearings until you leave care to permanency or age out.
- The purpose of permanency hearings is to decide your permanency goal as well as other goals related to caring for you and meeting your needs as you grow up.
- The court will also ask what services are being provided to help achieve permanency.<sup>40</sup>

### **Why do I have multiple permanency goals?**

- Pennsylvania requires “concurrent planning” which means the agency is working towards two permanency goals at the same time.<sup>41</sup>
- One goal is often identified as the “primary” goal, but services to achieve multiple goals will happen at the same time.

### **What's the purpose of having more than one goal?**

- The ultimate goal is that every child exits foster care to permanency.
- If one plan isn't working out or is taking too long, then there is already another option that provides a safe, stable home with lifelong supportive connections. For example, reunification and placement with a fit and willing relative might both be your permanency goal.

### **Do I get to provide input on what my permanency plan is?<sup>42</sup>**

- Yes. This is your life and your voice matters!
- The judge in your case is required to “consult” with you about your views on the permanency plan and what you want the goal to be.<sup>43</sup>
- Decisions about your permanency plan and the supports you need to achieve it also are made at your case planning meeting, which occurs at least one every six months. You have a right to participate in case planning meetings, and they are a great time for you to express your views.<sup>44</sup> If you are age 14 or older, you should be given the opportunity to sign off on the case plan.<sup>45</sup>



**No matter what age you are, you deserve family and permanency. Everyone needs the love and support of family.** Always let your caseworker, your lawyer, and the judge know where you want to live, who you consider family, and what it would take to be part of the family you choose!

**Can my permanency goal change?**

Yes. Things change, and what’s best for you or even what you want can change. That’s why the court is required to review your permanency plan every six months.

**II. Getting to Permanency: Services and Supports to Achieve Family and Supportive Connections**

Foster care is meant to be temporary and is supposed to provide care for youth until they can go safely home. It should provide services to help youth return home safely or help them find people who they can create a family with safely. Permanency services is a name for the types of services that should be provided to youth and families so that youth can return home or find family through adoption, PLC, or placement with a relative. Below is a chart with what services are available based on your permanency plan. Below the chart is a summary of what the services provide and how it can help you achieve permanency.

**Permanency Services**

Permanency Services	Services Available Based on your Permanency Goal				
	Return to Parents (Reunification)	Adoption	Permanent Legal Custodianship	Placement with a Relative (Kinship Care)	Another Planned Permanent Living Arrangement (APPLA)
Child/Family Visitation	x	x	x	x	x
Child Profile	x	x	x	x	x
Child Preparation	x	x	x	x	x
Child Placement		x	x		
Child-Specific Recruitment		x	x	x	x
Family Finding	x	x	x	x	x
Family Profile		x	x	x	x
Adoption Finalization		x			
Post-Permanency Services		x	x	x	
Transition to Adulthood Services (Independent Living Services)*	x	x	x	x	x

See Below for details and examples on how each service can be used .

## **What is the Statewide Adoption and Permanency Network (SWAN) and what does it have to do with permanency services?**

- SWAN (Statewide Adoption and Permanency Network) is a Pennsylvania network of agencies, organizations, judges, advocates, and others that is meant to help youth in foster care achieve permanency.
- The SWAN program helps county child welfare agencies provide certain permanency services to youth in the child welfare system. While these are not the only permanency services youth can receive, these services are very helpful and are important for youth to understand.

## **What is family finding and engagement?**

- Family finding is a **legal requirement** that the child welfare agency take steps to identify, locate, and engage your family.
- Family finding aims to help identify, begin, and rebuild important family relationships.
- Family finding is important because it recognizes that meaningful, supportive, permanent relationships with loving adults is essential and that being removed from your family often means losing or forgetting these connections.
- The agency is legally required to do this at least once every year, regardless of your permanency goal.<sup>46</sup>
- Family finding starts when you first enter care and continues throughout the entirety of your time in the child welfare system, unless you are in a pre-adoptive placement or the court finds family finding is no longer in your best interest or harmful to your wellbeing.
  - Even if you can't live with your family members, the agency should provide you with services to help build and strengthen your connection to them if those relationships would be safe and stable for you.
- Your voice matters. If you know of any family or kin (people with whom you or your family have significant, positive relationships like Godparents or tribal members), share their information with your caseworker, lawyer, or judge. Even if you do not know their address or phone number, share their names and whatever information you do know about them.

## **How does family finding and engagement help with permanency?**

- Family finding recognizes permanency as a permanent belonging, which includes knowledge of personal history, understanding your identity, and relationships with a range of involved and supportive adults rather than just one legal resource.
- Every youth in foster care has a family, and when they are removed, it can be extremely lonely to lose those connections.
- Family finding can help you reconnect with family members or other significant people you lost contact with or never had the chance to meet.

- Specially trained social workers work to connect you with caring adult family members. These connections can help you feel less alone and discover your history and place in the world.

### **What is a child profile?**

- A child profile<sup>47</sup> is a summary of your life history, including where you have lived and your placements while in care.
- This is a service available for any youth in foster care regardless of your permanency goal.

### **How does a child profile help youth find permanency?**

- It can feel strange and isolating when you don't know your own history and have no one to ask; a child profile can help you know and understand your history.
- The profile can also help find existing or past connections and supports or help find and introduce you to families and relatives that can be supports and connections.

### **What is child preparation?**

- Child preparation<sup>48</sup> is a six-month service that YOU lead.
- It helps you process your life history.
- It is not therapy. It just gives you time and support to work through issues and feelings that are important and can get you ready for finding or being placed with family. For example, some of the activities in the written plan can include videos, shadowboxes, or selfies.
- This is a service available for any youth in foster care regardless of your permanency goal and can be done multiple times through SWAN.

### **What is Child-Specific Recruitment and the Pennsylvania Older Child Matching Initiative?<sup>49</sup>**

- This service helps you find and build permanent supportive adult connections.
- The search begins by identifying people and relationships that are important to you. YOU are engaged in the whole process.
- This service can help you find people you can live with and find legal permanency with, but it can also be used to build your network of supportive adults who will be involved in your life.
- This service is available for any youth in care up to age 21.

### **How can child-specific recruitment help youth achieve permanency?**

- Child-Specific Recruitment is designed to help find you a “forever family” however that is defined by you. It can be used to recruit an adoptive resource or PLC. It can also be

used to find family members for kinship care or caring adults who can be life-long supportive connections.

### **What is a family profile?**

- This service is primarily used to help prepare families for adoption, PLC, or kinship care.
- It can also be used to help identify and build lifelong supportive connections for older youth.

### **How does a family profile help with permanency?**

- Family profile services help families be better prepared to make permanency successful.
- All relationships have strengths and challenges. This service helps identify family strengths and challenges and resources to overcome these challenges.

### **What are post-permanency services?**

- Post-permanency services are available for youth and families who have achieved permanency.
- These services are available for families who have achieved permanency through adoption, permanent legal custody, or kinship care.
- Creating a new “family” is a major change and can come with challenges. Post-permanency services are designed to help families identify their strengths, establish goals, and locate community resources for ongoing supports.
- **The services are family-driven, and families can access them by calling the SWAN Helpline at 1-800-585-7926 or by email at SWANHelpline@diakon-swan.org.**

### **What are transition to adulthood services (independent living services)?**

- Transition services help you gain the skills everyone needs to be a successful adult. These skills can include budgeting, planning for your career and education, and finding and managing housing.
- These services should be provided to you along with permanency services.
- You are eligible for these services until age 23 in Pennsylvania.

If you exited care at age 16 or older, you are eligible for transition services – even if you are no longer in care. (See Chapter 9: Planning for the Future Transition to Adulthood and Discharge Planning)

### III. Visitation and Contact with Family

#### Why are visits with family important?

Visitation helps you keep your connection with your family and community. They can help you and your family overcome the issues that brought you into foster care or just help you build healthier relationships with your family.

#### What is visitation?

- Visitation is in-person contact with your family or kin.
- Visitation with your family helps you stay connected. Visits are important, because connection with family is important!
- Visits should occur in the most family-like setting appropriate and available.
- When appropriate, parents should also be invited to participate in your extracurricular activities like school; sports; education; and medical events, meetings, or appointments.
- The law guarantees visitation with parents and siblings if you are in foster care, but visits with other people you consider family or kin are also a great idea and should be supported.

**Make sure that there is a visitation schedule. Even when you are placed out of state, you still have the right to visit your parents.** Scheduling these visits can be difficult, but they should still occur.

#### Can I refuse visitation?

- Visits are usually court ordered.
- Tell your caseworker and your lawyer if visiting with your family upsets you or if you are being hurt during visits.
- The visitation order can be changed, or conditions can be added to make you feel safe, like supervision or a change in location or time.
- Your lawyer can request a hearing at any time and ask the judge to change the visitation order. (See Chapter 17: Getting Your Voice Heard—Self-Advocacy/Grievance)

#### What do I do if I have concerns about how my visits are going?

- See Chapter 17: Getting Your Voice Heard—Self-Advocacy/Grievance

#### Where will visitation be?

Visits should be as family-friendly and private as possible.<sup>50</sup> Examples of possible places a visit could occur include: your parent's home, your foster home, parks, restaurants, or a family visitation center.

### What is supervised visitation?

Supervised visitation is an in-person visitation that is monitored by a caseworker, foster parent, biological family member, family friend, or another adult who is approved to make sure everyone is safe. The court is normally the one to order supervised visitation.

### What's unsupervised visitation?

Unsupervised visitation is in-person contact that isn't monitored by anyone.

### Is visitation the same as a "Home Pass" or weekend visit home?

- Not necessarily. Visitation just means that you get to see your family.
- Visitation can occur at your placement, at the agency, or in the community (like a restaurant or park).
- Going to your parents' or relatives' home and sleeping overnight is often called a "home pass" or an overnight visit.

### Can visitation be taken away as punishment?

- NO. It is against the law to have your visits taken away from you as a punishment or given to you as a reward for your behavior.<sup>51</sup>
- In some cases, your placement can restrict where your visits occur.
- You may have to have your visits at your placement rather than being permitted to go home on a "home pass."
- If there are restrictions placed on your visits, you should be told the reason why.

Call your lawyer if you think your visits have been taken away as punishment or if you are not getting to see your family and do not understand why. Raise any questions or concerns you have about visitation in court, because judges get to make most of the decisions about visitation. **YOUR VISITS CAN ONLY BE RESTRICTED BY A JUDGE'S COURT ORDER.** (See Chapter 17, Getting Your Voice Heard—Self-Advocacy/Grievance)

### How often can I visit with my parents?

- **You have a right to visit with your parents at least once every two weeks, unless the judge restricts visits by a court order.**
- Every two weeks is a minimum; more visitations can be provided.
- Your county child welfare agency must help you and your parents get to the location where the visit can occur and should help make visits convenient for you and your parents. This should include things like having visits in places close to where your parents live or providing your parents money for transportation.

- When you create a Child Permanency Plan (CPP) and Individualized Service Plan (ISP), make sure that you include your visitation schedule along with any support needed to make visitation possible, such as transportation or supervision.
- **Even when you are placed out of county or state, you still have the right to visit your parents.**

### **When and why can a judge limit visits?**

- A judge can limit visitation if you are being greatly harmed by the visits and there are no alternatives or changes that can be made that will make you safe, such as having someone supervise the visits.
- Visitation with your parents may decrease if you plan to become adopted. Once your parents' rights are terminated, they no longer have any legal right to visit you. While you are in placement, the agency may allow you to have visits, but they are not required to. (See Chapter 1, Section I: Understanding Permanency and Permanency Goals—Post-Adoption Contact Agreement).

### **Can I visit my parents if my permanency goal is not reunification (returning to your family)?**

- Visitation with family should occur regardless of your permanency goal, but visiting with your parents generally decreases if your permanency goal is no longer reunification.
- **If your parents' rights have not been terminated** (see Chapter 1, Section I: Understanding Permanency and Permanency Goals—Termination of Parental Rights), the judge will decide whether you have a right to visitation and support from the agency.<sup>52</sup> The judge looks at several factors to determine whether visitation continues to be in your "best interests." Some of the factors<sup>53</sup> the judge might consider include:
  - Length of separation from natural parents;
  - Effect of visitation on the child;
  - The age, sex, and health of the child;
  - The emotional relationship between child and parents;
  - The special needs of the child; and
  - The effect on the child's relationship with the current caregiver, usually the foster parents.
- YOUR wishes matter! Stating whether you want visits and any supports you need to make visits best for YOU is important.

### **Can I visit my parent(s) in jail/prison?**

- **If reunification is your goal**, the agency **must** provide visits every two weeks<sup>54</sup> unless the court ordered no visitation or your parents refused visitation in writing.<sup>55</sup>
- However, there are times where visitation with a parent who is incarcerated will be restricted by the court,<sup>56</sup> such as:<sup>57</sup>

- The child is the victim of the crime for which the parent is incarcerated AND there is a grave threat of harm to the child;
- The child is scheduled to testify as a witness at trial against the incarcerated parent;
- A qualified mental health professional trained in grief and loss has stated that it would be emotionally harmful for the child to visit with the incarcerated parent and the Judge or Hearing Master feels this is an appropriate recommendation;
- The child does not wish to visit with the incarcerated parent and the Judge or Hearing Master feels it is an appropriate request; or
- The child is medically fragile, and a qualified physician indicates visits in a prison should not occur due to the child's health condition.
- Many counties have worked with their local jails so that visits can occur in a setting that is comfortable for the family. Some examples include Adams, Allegheny, Blair, Crawford, and Westmoreland counties.

If you want to visit with an incarcerated parent but are not being provided that opportunity, speak with your caseworker, lawyer, and judge. (See Chapter 17, Getting Your Voice Heard—Self-Advocacy/Grievance)

#### **Other than visitation, how else will I be able to have contact with my parents?**

- Unless there are safety concerns, your parents should attend your extracurricular activities, school activities, sporting events, and doctor’s appointments.
- Talk to your caseworker or lawyer if there’s something you’d like to invite your parent to attend. (See Chapter 17, Getting Your Voice Heard—Self-Advocacy/Grievance)
- You should also be able to maintain contact through phone, mail, email, social networking, and/or video conferencing. This should be in addition to, not instead of, regularly scheduled visits.<sup>58</sup>

#### **What is in a visitation plan?**

- A visitation plan helps to make sure everyone knows when, where, and how often visits are happening and how everyone will get to them.

#### **IV. Placement, Visiting, and Contact with Siblings**

##### **Who is considered a sibling who I have a right to visit with?**

- Pennsylvania policy defines siblings broadly and includes full siblings, half-siblings, stepsiblings, or other kinship bonds that model the brother-sister relationship.
- The policy recognizes that siblings share life experiences that create and solidify the “sibling bond.”



### **Do I have the right to be placed with my sibling?**

- Federal and Pennsylvania state laws recognize the importance of sibling relationships.
- Federal law requires reasonable efforts to place siblings together and to provide for frequent visitation when siblings are not placed together.<sup>59</sup>
- Pennsylvania law goes even further by requiring that siblings be placed together unless it is contrary to the safety or well-being of either sibling.<sup>60</sup>
- If siblings cannot be placed together, Pennsylvania law requires visitation be provided at least two times per month.<sup>61</sup> If it is not possible, the agency must try to keep you and your sibling as close to one another as possible.<sup>62</sup>
- If you aren't placed with your sibling, the agency must actively and continuously try to find a place where you and your sibling(s) can be placed together.<sup>63</sup>

### **Do I have the right to visit my sibling(s) if I am in foster care?**

- If your siblings are still living with your parents, it is generally up to your parents to decide when and if you can see them.
- **If both you and a sibling are in foster care, but are not placed together, you have a right to visit with your siblings at least twice a month, unless the court finds such visitations are not safe.**<sup>64</sup>
- If that is the case, the agency should be providing services to help make the situation safer so that you can visit your sibling safely and regularly.

### **What is a safety or well-being concern and why would it prevent a sibling visit?**

- Generally, this means that there is something that makes visitation between you and your sibling/s unsafe (for example, if one sibling is hurting the other).
- If the agency has concerns about your relationship with your sibling, they are required to make efforts to address any concerns they have.

### **What should the agency do to help address a safety or well-being concern?**

- If the agency has a safety or well-being concern, they must provide you with services that help overcome any safety or well-being concerns. Examples of things that could help with safety concerns include providing supervision and having a support person available.
- The court should make sure that you are having visitation or explain why it's not safe. So, make sure to tell your lawyer and judge if you aren't having visitation with your sibling. (See Chapter 17, Getting Your Voice Heard—Self-Advocacy/Grievance)

## V. Contact and Visitation with People I Care About

### **Why is visitation with people other than my parents and siblings important?**

- Finding family, maintaining family connections, and building a support system are important as you get older and help you transition out of care.
- Talk about the connections you already have and want to make through visits and other contact at all your case planning meetings and in court.
- If you need help making connections with people, such as reaching out to people in your past or arranging visits, let your team know.

### **Can I have contact and visits with extended family, mentors, or community members?**

- Sometimes. Even when you are separated, you are still a part of communities and have relationships that are important to you.
- Extended family members, mentors, and strong supportive connections can be an important part of your permanency plan.
- You should be supported in having contact and visits with these supportive connections. Let your caseworker know who the important people in your life are, including extended family, mentors, and community members you want to visit. (See Chapter 17, Getting Your Voice Heard—Self-Advocacy/Grievance)

### **How do I request visitation with other extended family, mentors, or community members?**

- Let your caregiver, resource parent, and caseworker know about people you care about and want to contact. They should work with you to make this contact possible. They will want to make sure you are safe, but having a support system and network is really important as you grow up. (See Glossary: Reasonable and Prudent Standard—Parental Decision-Making)
- Overnight or more long-term visits are also possible, but some processes will need to be followed to make sure you are safe.
- Be persistent and tell your lawyer or judge if you are having problems getting these visits or connecting with people you care about. The court **can** order the agency to provide visitation with extended family members or people who are important to you.

### **Can I spend time with friends or a boyfriend/girlfriend?**

- Your foster/resource parent (or designated caregiver in a group home) can give you permission to participate in social, cultural, extracurricular, and enrichment activities.<sup>65</sup> This includes dating and visiting with friends. (See Glossary: Reasonable and Prudent Standard—Parental Decision-Making)
- If you are in a group care setting, someone should be designated to make these decisions.

- Just like other families, resource parents, caregivers, and their children do not always agree. If you disagree, voice your opinion. Explain why you disagree and find out why they made their decision. (See Chapter 17, Getting Your Voice Heard—Self-Advocacy/Grievance)

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<sup>1</sup> 42 U.S.C.A. § 675(5)(C) (A permanency plan must be developed no later than 12 months after a youth enters care.); 42 Pa.C.S.A. § 6351(e)(3)(i) & (f) (Permanency hearings are generally held 6 months after a youth comes into care, and the appropriateness of the permanency plan must be determined at each permanency hearing.).

<sup>2</sup> 42 Pa.C.S.A. § 6351(e)(3).

<sup>3</sup> 42 Pa.C.S.A. § 6351(f.1)(1)–(5).

<sup>4</sup> 23 Pa.C.S.A. § 2521.

<sup>5</sup> 42 Pa.C.S.A. § 6351(f)(9); 42 U.S.C.A. § 675(5)(E).

<sup>6</sup> 23 Pa.C.S.A. § 2904 (“If requested by the petitioners, the decree may provide that the adoptee shall assume the name of the adopting parent or parents and any given first or middle names that may be chosen.”).

<sup>7</sup> 42 Pa.C.S.A. § 6351 (e)(1).

<sup>8</sup> See 23 Pa.C.S.A. § 2711(a)(1).

<sup>9</sup> 42 Pa.C.S.A. § 6351 (e)(1) (“In any permanency hearing held with respect to the child, the court shall consult with the child regarding the child’s permanency plan, including the child’s desired permanency goal, in a manner appropriate to the child’s age and maturity.”).

<sup>10</sup> 23 Pa.C.S.A. § 2311.

<sup>11</sup> 23 Pa.C.S.A. § 2902(a).

<sup>12</sup> 23 Pa.C.S.A. §§ 2731–42.

<sup>13</sup> 23 Pa.C.S.A. § 2738; OFFICE OF CHILD., YOUTH, & FAM., PA DEPT. OF PUB. WELFARE, OCYF BULL. NO. 3350-11-01, IMPLEMENTATION OF ACT 101 OF 2010 (2011),

<https://www.dhs.pa.gov/docs/Publications/Documents/FORMS%20AND%20PUBS%20OCYF/OCYF%203350-11-01.pdf>.

<sup>14</sup> 23 Pa.C.S.A. § 2735.

<sup>15</sup> 23 Pa.C.S.A. § 2738.

<sup>16</sup> 23 Pa.C.S.A. § 2734.

<sup>17</sup> 23 Pa.C.S.A. § 2733.

<sup>18</sup> 23 Pa.C.S.A. § 2733.

<sup>19</sup> 23 Pa.C.S.A. § 2738.

<sup>20</sup> See, e.g., PENNSYLVANIA STATEWIDE ADOPTION & PERMANENCY NETWORK, VOLUNTARY POST-ADOPTION CONTACT AGREEMENTS: AN EXPLANATION FOR YOUTH, [http://swantoolkit.org/wp-content/uploads/PACAs\\_for\\_Youth\\_FINAL.pdf](http://swantoolkit.org/wp-content/uploads/PACAs_for_Youth_FINAL.pdf).

<sup>21</sup> 23 Pa.C.S.A. § 2732.

<sup>22</sup> 23 Pa.C.S.A. § 2737.

<sup>23</sup> 23 Pa.C.S.A. § 2737.

<sup>24</sup> PENNSYLVANIA STATEWIDE ADOPTION & PERMANENCY NETWORK, VOLUNTARY POST-ADOPTION CONTACT AGREEMENTS: AN EXPLANATION FOR YOUTH, [http://swantoolkit.org/wp-content/uploads/PACAs\\_for\\_Youth\\_FINAL.pdf](http://swantoolkit.org/wp-content/uploads/PACAs_for_Youth_FINAL.pdf).

<sup>25</sup> *Pennsylvania State Adoption Assistance Program*, NORTH AMERICAN COUNCIL ON ADOPTABLE CHILDREN (updated Sept. 2019), <https://www.nacac.org/help/adoption-assistance/adoption-assistance-us/state-programs/pennsylvania-adoption-assistance-program/>.

<sup>26</sup> 67 Pa.C.S.A. § 2102.

<sup>27</sup> OFFICE OF CHILD., YOUTH, & FAM., PA DEPT. OF PUB. WELFARE, OCYF BULL. NOS. 3130-10-02, 3140-10-03, PERMANENT LEGAL CUSTODIAN POLICY 4 (2010), <https://www.dhs.pa.gov/docs/Publications/Documents/FORMS%20AND%20PUBS%20OCYF/OCYF%203130-10-02%203140-10-03.pdf>.

<sup>28</sup> 67 Pa.C.S.A. § 2102.

<sup>29</sup> 42 Pa.C.S.A. § 6351(f.1)(4).



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<sup>62</sup> OFFICE OF CHILD., YOUTH, & FAM., PA DEPT. OF PUB. WELFARE, OCYF BULL. No. 3130-12-01, Act 115 of 2010 Regarding Placement and Visitation with Siblings (2012), <https://www.dhs.pa.gov/docs/Publications/Documents/FORMS%20AND%20PUBS%20OCYF/OCYF%203490-12-01%203.pdf>.

<sup>63</sup> OFFICE OF CHILD., YOUTH, & FAM., PA DEPT. OF PUB. WELFARE, OCYF BULL. No. 3130-12-01, Act 115 of 2010 Regarding Placement and Visitation with Siblings (2012), <https://www.dhs.pa.gov/docs/Publications/Documents/FORMS%20AND%20PUBS%20OCYF/OCYF%203490-12-01%203.pdf>.

<sup>64</sup> 42 Pa.C.S.A. § 6351(f)(11) (“If the child has a sibling, whether visitation of the child with that sibling is occurring no less than twice a month, unless a finding is made that visitation is contrary to the safety or well-being of the child or sibling.”); 11 P.S. § 2633.

<sup>65</sup> Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, § 111, 128 Stat. 1919, 1923-24 (2014); Activities and Experiences for Children in Out-of-Home Placement Act, 11 P.S. § 2644.

# CHAPTER 2: RIGHTS WHEN YOU ARE PLACED IN FOSTER CARE

**Introduction:** When you come into the child welfare system, you should be provided a safe place to live where people take good care of you. There are a lot of different types of placements. This Chapter explains types of placements, how decisions are made about placements, and tips for how you can advocate for the placement you think is best for you and so you can get what you need while you are in a placement. This chapter also tells you about the rights you have when you are placed.

## I. Placement Types

### **What is substitute care or foster care?**

When we use the term substitute care or foster care in this guide we are talking about when you are placed by the child welfare agency after being found (adjudicated) dependent by the court. We will usually use the term “foster care” since that is a term most people use. But we are talking about a range of placements that could include living with foster families, living in group homes, living with relatives, or living in a Supervised Independent Living (SIL) placement.

### **What types of placements are in the child welfare system in Pennsylvania?**

Here are some examples of the types of placements available:

- **Resource homes or foster homes**<sup>1</sup>: A home where a youth lives with a resource parent or parents.
- **Kinship foster homes**<sup>2</sup>: A home where a youth lives with kin or a relative who is licensed as a foster parent.
- **Therapeutic foster homes**: A resource home that has resource parents that are specially trained to support youth with behavioral health needs.
- **CRR Host Homes**<sup>3</sup>: Small group setting that may resemble a resource home that are provided through the behavioral health system.
- **Group care or institutional care**<sup>4</sup>: A small or large group setting where youth are provided care by staff.
- **Residential treatment centers**<sup>5</sup>: Group or institutional settings where a youth is provided care and treatment.
- **Transitional living placements**<sup>6</sup>: Small group setting for youth ages 16 and older.
- **Supervised Independent Living Placement for youth 16-21**<sup>7</sup>: A variety of living settings for young adults that provides more freedom and responsibility.

## What is required to become a resource parent?

- In Pennsylvania, foster parents are called resource parents.
- Requirements for resource parents are described in state regulations and law.<sup>8</sup> To be a resource parent you must be at least age 21 and pass a medical exam and screening requirements related to child abuse and criminal history clearances.<sup>9</sup>
- A resource parent's home must also meet some basic safety requirements and requirements related to space, heating, and sleeping arrangements.<sup>10</sup>
- Resource parents are licensed and are re-evaluated each year. The re-evaluation includes a home inspection.
- Resource parents are required to attend at least six hours of training per year.

## If resource parents get paid to take care of me, how come I do not get any of the money?

- Resource parents are paid to take care of children in their homes. How much they get paid depends on what part of the state you live in and your needs. For example, a resource family may receive more money if they are taking care of a child who is 18, has a lot of medical needs and needs more attention from the resource parent.
- The money that is paid to a resource family is to be used to take care of the youth in the home –it pays for your housing, food, clothes, and any activities you are involved in. Some of the money may also be used to pay allowance to you, but that is up to the county and the private provider who contracts with the resource parent.
- Having an allowance is a good way to learn to manage your money so ask your agency about its allowance policy.

## Can a relative, Godparent, or family friend be my resource parent?

- Yes, family members and other adults you know can be licensed as resource parents.
- To receive financial assistance from the children and youth system, a relative or kin must be licensed the same way a resource parent is licensed.
- If you know a family member who may be interested in taking care of you, let your caseworker and lawyer know. Your caseworker should be looking for relatives right away, but you can help them get in touch if you have someone in mind.

## II. Placement Decisions

### What is considered in making placement decisions?

- All efforts should be made to help you return home.
- **If you cannot return home, you have the right to be placed in the least restrictive, most family-like setting that is right for you.** This means that you generally should be

placed with a family (your extended family, a foster family, or an adoptive family) or in a family-like home rather than a group home or institution.

- If you are placed in a group home or institution, the county child welfare agency should be looking for a placement for you that is more family-like for the future.
- The county child welfare agency should also be helping you to connect with adults who can provide support even if they cannot provide a home. This could include extended family, a favorite teacher, family friend, mentor, or former foster parent.

### **Do I get a say about where I am placed?**

- You should always let your caseworker, lawyer and judge know what type of placement you think is best for you and why.
- You should tell your caseworker if there is anyone you can identify—family members, a family friend, a teacher, a pastor—who is important to you and with whom you want to maintain contact. These people may be able to become a placement resource or a supportive connection for you. Your caseworker can explain to them how to do that. (See Chapter 17: Getting Your Voice Heard)

### **What can I do if I want my placement to change?**

- If you feel like the placement you are in is not right for you or that you are not being treated well, you should let your caseworker and lawyer know.
- It is important for you to explain why you think one placement is not good for you and why another would be better.
- You should always be in the least restrictive, most family-like placement possible. For example, if you are in a group home and feel that you are ready to be placed with a family, you should tell your caseworker and lawyer.

### **Will I be placed with my siblings?**

See Chapter 1: Rights Related to Family and Permanency.

### **Will I be placed with my child if I am a parent?**

See Chapter 15: Expectant and Parenting Youth.

### **Are there any placements for older youth that provide more freedom?**

- As you get older, regardless of where you are placed, you should be provided the opportunity for increased responsibility and independence.
- Most teens and young adults do live with parents and family as they grow up and enter adulthood. That is because young people need and deserve the support of family as they work to complete their education, get a job, and figure out their future.



- Older youth should be in family settings like resource and kinship homes to the greatest extent possible.
- There are also some other options for placement settings for youth as they get older. The placements listed below provide young people support, but also allow them age-appropriate freedom and responsibility. This means there will be less direct supervision and that youth will have more responsibilities for caring for themselves and managing their time.
- Transitional Living Placements (TLPs) are one type of placement for youth ages 16-21. TLPs take the form of small group settings (no more than four youth to a placement). Youth in TLPs are given more freedom and responsibility than in foster and group homes, but they still have more assistance and supervision than in an SIL setting.<sup>11</sup>
- Supervised Independent Living Placements (SILs) are placements for older youth and young adults who are ages 16-21.<sup>12</sup> There are a lot of types of SIL placements, and some focus on youth in extended foster care who are 18-21. Different types of SILs can provide different levels of supervision, but generally youth in SILs are able to live pretty independently, but still receive support and guidance depending on their individual needs.
  - Some SIL settings are apartments where youth live with a roommate or on their own and have a good deal of responsibility for their daily routines and meeting their own needs.
  - An SIL can also include living in a dorm on campus at college, in a host home, or even a living setting that the youth selects.
- If you are interested in one of these placements talk to your caseworker and lawyer, to see how you can have more independence while still having the support of a family.

If you are over 18, you should have your status as a legal adult respected when it comes to responsibilities and decision-making. This is true for young people who stay in foster care after age 18.

### How do placement changes happen?

- You should be informed if your placement is going to change and given an opportunity to express your opinion on any changes.
- The judge in your case needs to approve any decision to change your placement.
- If your placement is being changed for a *non-emergency reason*, the agency must get the approval of the court before changing your placement.
  - In this situation, your lawyer will be given notice of the plan to change your placement. Your lawyer can agree or disagree with the plan. If your lawyer disagrees, the judge may schedule a hearing to talk about the placement change.<sup>13</sup>
  - When asking the court to approve a placement change, the agency must include your opinion about the placement change.<sup>14</sup>

- If your placement is being changed because of an *emergency*, the agency is still required to contact a judge to approve the placement change. If the agency cannot reach a judge, they can move you, but must quickly notify every one of the placement change and schedule a hearing with a judge to review the decision.<sup>15</sup>
- If you are being told that your placement will change and you do not agree, ask your lawyer to ask for a hearing and make sure you are able to attend and participate.

### III. Rights in Placement

#### What are rights?

- Rights are things that are guaranteed to you by the law. Rights are things that can be enforced by a judge. Your rights are also tools to help you advocate for yourself.
- The rights of youth placed in foster care in Pennsylvania come from several sources of law. These include: The United State and Pennsylvania Constitutions, federal and state child welfare law, federal and state regulation, and state policy, often referred to as Bulletins.
- After a lot of advocacy from youth, a law was enacted in 2010 called the Children in Foster Care Act.<sup>16</sup> This law put in one place many of the rights that youth have when they are placed in the foster care system. This guide provides you information about your rights as well as other benefits you should know about. See APPENDIX A for the full text of the law.
- Federal law also requires that youth in foster care receive a list of their rights beginning at age 14.<sup>17</sup> Pennsylvania law goes further and requires that a list of rights is provided to youth at all ages.

Wherever you are placed, you should always be treated with respect and you should always feel safe. If you do not feel respected or safe, you must let someone know so that you can be safe and so that things can change for the better. (See Appendix A: Foster Care Bill of Rights and Chapter 17: Getting Your Voice Heard)

#### What is the Children in Foster Care Act?

- Following a lot of advocacy from youth, a law was enacted in 2010 called the Children in Foster Care Act.<sup>18</sup> This law put in one place many of the rights that youth have when they are placed in the foster care system. Sometimes people call this a Foster Care Bill of Rights. This law covers many, many areas, and most of them are discussed throughout this guide. We will highlight a few key provisions in this chapter.
- The Act requires that all children and youth be given the list of rights that is in the Children in Foster Care Act and that it is explained to youth in an age-appropriate way. The child welfare agency should document in your case record that you have been given the list of rights.<sup>19</sup>

- The Children in Foster Care Act also requires that county child welfare agencies and private provider agencies have grievance policies that meet standards established by the Act and state guidance.<sup>20</sup> Children and youth should be told about the grievance policies when they are given the list of rights.<sup>21</sup>  
(See the full text of the law in Appendix A)

**Do I have a right to be in the most family like setting?**

- Yes.
- You should be living in the least restrictive, most family-like setting that is safe, healthy and comfortable and meets your needs.<sup>22</sup>

**Do I have a right to clothing, food or other basic necessities?**

- Yes.
- You have the right to clothing that is clean, seasonal and age and gender appropriate.<sup>23</sup>

**Do I have a right to communicate with family and friends?**

- You have the right to visit and have contact with family members, including siblings, as frequently as possible.
- Communication should be consistent with the family service plan and your permanency plan, unless prohibited by court order.<sup>24</sup>

**Do I have the right to be free from discrimination?**

- Yes. You have the right to be treated with fairness, dignity, and respect. Including the right to be free from discrimination based on race, sex, and/or religion.<sup>25</sup>

**Can I choose what if any religion I practice?**

- Yes. You can go to the church or house of worship that you want to.
- **You have the right to practice—or not practice—a religion of your choice.**<sup>26</sup>

**Do I have to go to church or practice the religion of my resource family?**

- No.
- You cannot be forced to practice the religion or go to the house of worship of your resource family parents or a caregiver.<sup>27</sup>

**Should I be allowed to participate in activities and do things that reflect the culture I identify with?**

- Yes.
- In addition to being able to participate in activities in the community and in school, including cultural activities, you should be able to be an environment reflects your culture.<sup>28</sup>

#### **Should I be given the information about the people working on my case and my lawyer?**

- Yes.
- You should be given the contact information of your lawyer, court-appointed special advocate and members of the integrated services planning team and the opportunity to contact those persons.<sup>29</sup>

### **IV. Normalcy—Participating in Activities in School and the Community**

#### **What is Normalcy?**

- “Normalcy” means having the same opportunity that youth who are not in foster care have to participate in activities and experiences in the community.
- For many years youth in foster care faced many barriers to doing activities that most kids get to do on daily basis. Things like playing sports, spending time with friends, or taking trips with a foster family did not always happen because a youth would need permission from a judge or the child welfare agency.
- Laws were passed that will remove barriers so youth in foster care can participate in activities and be part of the community like their peers who are not in foster care.
- The PA Youth Advisory Board developed a guide that highlights recommendations from young people about how to make sure all youth have the opportunity to participate in activities and be part of the community.<sup>30</sup>

#### **Are children and youth in foster care allowed to participate in extracurricular, enrichment, social, and cultural activities?**

- Yes! Federal and state law make it clear that youth placed in the child welfare system should have an opportunity to participate in extracurricular, enrichment, social, and cultural activities to the same extent that youth who are not in foster care do.
- The child welfare agency is required to support youth in participating in activities in the community and eliminate barriers to participate.<sup>31</sup>

#### **How do the normalcy laws make it easier for youth to participate in activities?**

- The laws remove barriers to youth participating in activities by letting your resource family parents or caregivers in group settings make everyday decisions about your activities rather than getting the permission of the child welfare agency or the court.

This should make it easier to get permission so youth can take advantage of opportunities.

**What are examples of extracurricular, enrichment, social, and cultural activities that youth can participate in?**

Examples include:

- Community events and activities
- Family events
- Camping/hiking
- Sporting activities and teams
- Day/sleepover camps
- Field trips
- Hobbies
- School-related activities
- Participation in youth organizations
- Attending a movie/mall or other social outing with friends
- Spending the night away from the caregiver's home at the home of friends or as part of a planned activity
- Obtaining employment or internships
- Dating

These are just a few examples. There are many, many more.

**How much money are resource family parents and group homes supposed to use on my activities?**

- Resource family parents and group care providers are given money to care for you, but they are not told to spend a specific amount on activities.
- The money resource family parents are given is for many different things that go into your care, and it is hard to break that down into exact amounts. It includes providing for your living costs (housing, clothing, and food), and it also includes funds for entertainment, enrichment, and special events.
- Talk to your resource family parent and caseworker about the activities you want to do so you can all work together to make them possible. Talk to your lawyer and the judge in your case about this, too.

**If you have a disability or special need, can you still participate in activities?**

- YES! Youth with disabilities benefit from activities to the same degree as all youth and should have the same opportunities for participation.<sup>32</sup>

- If you need extra support to participate because of your disability, reasonable supports are required under the law to be provided.
- Let your case planning team know about the activities you want to participate in so any needed plans or supports can be identified and arranged. (See Chapter 6: Youth With Disabilities)

**I live in a resource family home. Who gets to decide if I get to participate in an activity?**

- Under the law, your resource family parent gets to decide whether or not you participate in an activity.<sup>33</sup> They are supposed to use what is called the **reasonable and prudent parent standard** to make the decision.<sup>34</sup>
- The law is supposed to make it easier and quicker for these decisions to be made so that you can take advantage of opportunities that come up.
- Your resource family parent or caregiver should talk to you about the activity, why you want to do it, and any concerns they may have.
- Your voice is important to the decision-making process! Make sure you let your resource family parent know what activities are important to you and why.

**I live in congregate care (group home) or a supervised independent living placement (SIL). Who gets to decide if I can participate in an activity?**

- All congregate care homes and supervised independent living placements have at least one designated person who is on site at all times to make decisions about participation in activities.
- This person is a designated caregiver.<sup>35</sup>
- As you get older your voice should be given more weight so make sure it is heard. (See Chapter 17: Getting Your Voice Heard)

**Now that resource family parents and caregivers can make decisions about whether youth participate in activities, what will they consider to make those decisions?**

- Resource family parents and caregivers must use **the reasonable and prudent standard** to make these decisions. That means they should make a thoughtful and careful decision the way a parent would for their own child.
- To do this they must take many things into account. Here are some things that they should consider:
  - The appropriateness of the activity, child/youth's age, and developmental stage
  - Potential safety risks involved in the activity
  - Supports, planning, or accommodations that can help manage the potential risks of the activity
  - Determining if supervision will be provided or is needed
  - Encouraging the child/youth's formation of healthy age-appropriate social relationships and bonds
  - Allowing the child/youth to maintain an age-appropriate degree of personal privacy
  - Helping the child/youth develop skills and nurtures an interest or talent
  - Encouraging the emotional, developmental, or cultural growth of the child/youth
  - Helping connect the child/youth to the community
  - Helping the child/youth to use and develop age-appropriate autonomy and decision-making skills

Your voice and opinion about the activity should also be considered as well as the input of your parents and family.<sup>36</sup>

**Are there any limits to what my resource parent or caregiver can give permission to?**

- Your resource parent or caregiver needs to follow the case plan and any court orders in your case. This means they cannot give you permission to participate in an activity if it would conflict with something in a case plan or court order, like visitation or therapy.<sup>37</sup>
- If the activity you want to participate in conflicts with something like visitation, talk with your case planning team to see if things can be rescheduled so that you can have visitation and participate in the activity. Sometimes it is possible to do both, but you need to plan!

**Is my preference considered in the decision about what activities I participate in?**

- Yes! Resource family parents and caregivers should talk with you about the activities you are interested in and help you find activities that you like or want to learn more about and make it possible for you to participate.
- As you get older, you should be more involved in the decision making.

- Good communication with your resource family parent or caregiver will help with these discussions and learning good advocacy skills will help you get your points across.

**What happens if I don't agree with my caregiver's decision about my participation in an activity? What happens when they say "no"?**

- Resource family parents should talk to you about their reasons for denying permission for participation in an activity, so you understand their decision.
- Asking what it would take for a "yes" is a good question to ask.
- If you are dissatisfied with the decision after discussing with the caregiver, speak with your caseworker and their supervisor.
- You can also file a grievance and ask that the decision be reconsidered.
- You can also contact your lawyer and ask them to help or ask them to bring the issue to the judge's attention at your next court hearing.

**Will the activities I participate in be discussed in court?**

- The court must make findings on the record about your participation in age- and developmentally appropriate activities by determining whether:
  - The county agency took sufficient steps to ensure that your caregiver used the reasonable and prudent parent standard when deciding about your participation in an activity; and
  - You have been offered regular, ongoing opportunities to engage in age- or developmentally appropriate activities, including being actively engaged in identifying and addressing any barriers.<sup>38</sup>
- If you have not been participating in activities or if you're facing barriers, the court can order the county child welfare agency to take actions so you can participate. Actions could include: helping you find an activity you like or providing transportation.
- The court should also ensure that you have been notified about your right to participate in activities and that you have been told about this right in a way you can understand.<sup>39</sup> Like the case planning meeting, your court review hearing is a great time for you to advocate for yourself!

**Will the court step in if I am having trouble participating in activities?**

- The role of the judge is to make sure the law is being followed. The judge can order that actions be taken to make sure you have an opportunity to participate in activities.<sup>40</sup>
- If it makes sense for you to participate in an activity but there is a barrier, like transportation or funds, the judge may make an order that eliminates the barrier like making sure transportation or funds are provided. See Chapter 18: Lawyers, Court, and Case Planning.



## V. FAQs REGARDING SPECIFIC ACTIVITIES THAT OLDER YOUTH ARE INTERESTED IN

Below are some activities that youth and young adults often have questions about. Some of these activities will be easier for youth to participate in because of the laws on normalcy that are described above. Others, like getting a driver's license or a tattoo, will follow other existing laws.

For many of these activities, your voice and advocacy can make a big difference. Make sure you are participating in your case planning meetings and talking with your caregivers and resource family parents about what is important to you.

### **Can I sleep over at a friend's house?**

- This is the type of activity your resource family parent or caregiver can give you permission to do using the reasonable and prudent parent standard.
- Clearances or criminal background checks are not needed.

### **Can I get my driver's license?**

- Pennsylvania law provides that a parent, guardian, or person acting in *loco parentis* (in place of a parent, which would be the county child welfare agency) can offer consent for a youth who is age 16 or older to obtain a learner's permit.<sup>41</sup>

### **Can I ride in my friend's car?**

- This is the type of activity your resource family parent or caregiver can give you permission to do using the reasonable and prudent parent standard.
- Clearances or criminal background checks are not needed.

### **Can I date?**

This is the type of activity your resource family parent or caregiver can give you permission to do using the reasonable and prudent parent standard.

### **Can I get a job?**

- Youth should be encouraged and supported in getting work experiences and employment. The Children in Foster Care Act says that youth should be given "the

opportunity to work and develop job skills at an age-appropriate level, consistent with the laws of this Commonwealth and as may be reasonably accommodated.”<sup>42</sup>

- But if the youth is under age 18, a parent or guardian has to provide permission for the youth to be employed.<sup>43</sup> The reasonable and prudent parent standard does not change this requirement. To find out more about work permits, visit the Pennsylvania Department of Labor and Industry’s website. [Employment of Minors Child Labor Act](#).<sup>44</sup>
- Part-time, summer or full-time jobs are an important way to learn independent living skills, get a sense of career options, and make valuable connections with adults and peers. Caregivers and the youth’s team should support the youth in identifying and having work experiences, resolving any barriers to employment like transportation, and ensuring that all appropriate paperwork is signed and completed.

### **Can I go to community events and activities without adult supervision?**

This is the type of activity your resource family parent or caregiver can give you permission to do using the reasonable and prudent parent standard.

### **Who decides if I can use the internet or social media?**

- This is the type of activity your resource family parent or caregiver can give you permission to do using the reasonable and prudent parent standard.
- Learning how to use social media and the internet is important and can help you learn and connect with people and resources.
- Resource family parents and caregivers should help you learn how to use the internet and social media in ways that protect your privacy and keep you safe.

### **Who decides if I can have a cell phone?**

- Resource family parents and caregivers should use the reasonable and prudent parent standard to make decisions about having and using a cell phone.
- The house rules or expectations that are set about whether you have a cell phone and how much you use it will be something you should discuss with your resource family parents and caregivers so you can express your needs and views and understand their expectations.

### **Who decides if I can get a haircut or dye my hair?**

- In most cases, your resource family parent or caregiver can give you permission to get a routine haircut or trim.
- Some hair styles or cuts may have religious or cultural significance. In those cases, your parents should be consulted because decisions about religion and culture are usually made by your parents.

- As you get older, your choices about your style and identity, including your choices about religion, should be given more weight. It is always good to talk things out with your case planning team even if you find it frustrating. Sometimes they will think of things that may not be on your mind or help you start a conversation that you may find hard.

## Who decides if I can get a tattoo or a piercing?

If you are under age 18, a parent or guardian’s consent is needed to get a tattoo or piercing.<sup>45</sup>

<sup>1</sup> Resource homes, including homes of kin, are regulated by 55 PA. CODE §§ 3700 (2016) et seq.

<sup>2</sup> Kinship care homes that are licensed as resource homes are regulated by 55 PA. CODE § 3700 (2016) et seq.

<sup>3</sup> Community Residential Rehabilitation Host Homes (CRRs) are provided through the behavioral health system and are meant to be short term to address treatment needs. Sometimes youth in the child welfare system can be placed in CRR host homes if they are eligible based on treatment needs.

<sup>4</sup> There are a range of group and institutional settings in Pennsylvania. They are regulated by 55 PA. CODE § 3800 (2016) et. seq.

<sup>5</sup> Residential treatment centers are regulated under 55 PA. CODE § 3800 (2016) et. seq.

<sup>6</sup> Transitional Living Placements are regulated under 55 PA. CODE §§ 3800.291-93 (2016).

<sup>7</sup> Certification as a Specialized Setting for Children and Youth,

[https://www.dhs.pa.gov/docs/Publications/Documents/FORMS%20AND%20PUBS%20OCYF/OCYF%20Bulletin%203680-20-02\\_3800-20-03\\_Specialized%20Residential%20Settings%20for%20Children%20and%20Youth\\_issued021420.pdf](https://www.dhs.pa.gov/docs/Publications/Documents/FORMS%20AND%20PUBS%20OCYF/OCYF%20Bulletin%203680-20-02_3800-20-03_Specialized%20Residential%20Settings%20for%20Children%20and%20Youth_issued021420.pdf).

<sup>8</sup> The basic requirements for resource family homes are found at 55 PA. CODE §§ 3700.61-.73 (2016). While some county child welfare agencies enter into contracts with foster parents directly, most foster parents are selected by and affiliated with private providers. This means that in addition to state law and regulation, many provider agencies have requirements for foster parents that go above the regulations and law.

<sup>9</sup> 55 PA. CODE § 3700.62

<sup>10</sup> See PA. STATE RESOURCE FAMILY ASSOCIATION, <http://www.psrfa.org> (last visited June 6, 2020), to learn more about foster parenting.

<sup>11</sup> Transitional Living Placements are regulated under 55 PA. CODE §§ 3800.291-93 (2016).

<sup>12</sup> To learn the specifics of the different SIL settings see OFFICE OF CHILDREN, YOUTH, AND FAMILIES, PA. DEP’T OF PUB. WELFARE, OCYF BULL. NO. 3130-14-01, YOUTH INDEPEND. LIVING SERVS. GUIDELINES (Dec. 8, 2014), <https://www.dhs.pa.gov/docs/Publications/Documents/FORMS%20AND%20PUBS%20OCYF/OCYF%203130-14-01.pdf>.

<sup>13</sup> PA.R.J.C.P. 1606(d)(1) (describing the court’s duties before Modification of Dependent Child’s Placement).

<sup>14</sup> PA.R.J.C.P. 1606(b)(5).

<sup>15</sup> PA.R.J.C.P. 1606(a)(1)(a)-(c).

<sup>16</sup> 11 PA. STAT. § 2631 (2011).

<sup>17</sup> 42 U.S.C.A. § 675a(b)(1)-(2) (2019) (Beginning at age 14, youth must be provided a list of their rights as part of the case-planning process. The list of rights must be part of the case plan and should address “education, health, visitation, and court participation,” the right to discharge documents, and to “stay safe and avoid exploitation.” The case plan must include a signed acknowledgement that the list of rights has been received and “explained to the child in an age-appropriate way.”)

<sup>18</sup> 11 PA. STAT. § 2631.

<sup>19</sup> 11 PA. STAT. § 2635(a)(1) (2011).

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<sup>20</sup> 11 PA. STAT. §2634(b) (2011); OFFICE OF CHILDREN, YOUTH, AND FAMILIES, BULL. NO. 3130-12-02, CHILDREN IN FOSTER CARE ACT (July 30, 2012),

<https://www.dhs.pa.gov/docs/Publications/Documents/FORMS%20AND%20PUBS%20OCYF/OCYF%203130-12-02%203700-12-01%203680-12-01%203800-12-01.pdf>.

<sup>21</sup> 11 PA. STAT. §2635(a).

<sup>22</sup> 11 PA. STAT. § 2633(4) (2011).

<sup>23</sup> 11 PA. STAT. § 2633(6).

<sup>24</sup> 11 PA. STAT. § 2633(10).

<sup>25</sup> 11 PA. STAT. § 2633(1)-(3).

<sup>26</sup> 11 PA. STAT. § 2633(21).

<sup>27</sup> *Id.*

<sup>28</sup> 11 PA. STAT. § 2633(12).

<sup>29</sup> 11 PA. STAT. § 2633(11).

<sup>30</sup> PA YOUTH ADVISORY BD., DEV. APPROPRIATE FREEDOMS AND NORMALCY RECOMMENDATIONS (2016),

<http://www.payab.pitt.edu/files/2016DAFRecommendations.pdf>.

<sup>31</sup> 11 PA. STAT. § 2645(2) (2015). This provision is part of a Pennsylvania state law called the “Activities and Experiences for Children in Out-of-Home Placement Act,” (“Act 75”). 11 PA. STAT. § 2641 (2015).

<sup>32</sup> 11 PA. STAT. 2644(a) (2015)( “A child with a disability or special needs in an out-of-home placement shall have the same access to age-appropriate or developmentally appropriate activities and experiences as the child's nondisabled peers, even if reasonable accommodations are required.”).

<sup>33</sup> 11 PA. STAT. 2644(b).

<sup>34</sup> 11 PA. STAT. 2644(c).

<sup>35</sup> 11 PA. STAT. 2643 (2015) (defining “caregiver” to include “an individual designated by a county agency or private agency).

<sup>36</sup> 11 PA. STAT. 2644(c)(2).

<sup>37</sup> 11 PA. STAT. 2644 (b)(1).

<sup>38</sup> 42 PA.C.S.A. § 6351(f)(12) (2011).

<sup>39</sup> 42 PA.C.S.A. § 6351(f)(12)(ii).

<sup>40</sup> PA.R.J.C.P. 1608(d)(1)(p)(ii) (requiring that the court identify and address barriers to participation).

<sup>41</sup> See PA. DEP’T OF TRANSP., A GUIDE TO OBTAINING A PA. JUNIOR LEARNER’S PERMIT AND JUNIOR DRIVER’S LICENSE, PUB. 178, 1 (2016), <https://www.dot.state.pa.us/Public/DVSPubsForms/BDL/BDL%20Publications/Pub%20178.pdf>.

<sup>42</sup> 11 PA. STAT. § 2633(14).

<sup>43</sup> 43 PA. STAT. § 40.8 (2013).

<sup>44</sup> *Employment of Minors Child Labor Act*, DEP’T OF LABOR AND INDUS. (2020),

<http://www.dli.pa.gov/Individuals/Labor-Management-Relations/lmc/child-labor/Pages/default.aspx>.

<sup>45</sup> 18 PA. STAT. § 6311(a)-(b) (2004).

## 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,<sup>1</sup> the Fostering Connections to Success and Increasing Adoptions Act,<sup>2</sup> and the Every Student Succeeds Act.<sup>3</sup>
- **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.**<sup>4</sup> The court can order that you be enrolled in another school if it meets your needs.<sup>5</sup>
- **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.<sup>6</sup>

### **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**.<sup>7</sup>
- 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.<sup>8</sup> 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.<sup>9</sup> 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.**<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup>
  - **You have a right to a hearing before being transferred to any alternative school.**<sup>14</sup>
    - **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.<sup>15</sup>
- 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.<sup>16</sup>

### **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.<sup>17</sup>
  - 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.<sup>18</sup>

- 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.<sup>19</sup>

### **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:<sup>20</sup>
  - 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.<sup>21</sup>

### **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 section<sup>22</sup> 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.<sup>23</sup>
- 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.<sup>24</sup> The judge should identify any educational needs that you have and the plan for how those needs will be met.<sup>25</sup> 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.

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<sup>1</sup> 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).

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

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

<sup>4</sup> See 237 PA. CODE §§ 1148(A)-(B) (2018).

<sup>5</sup> See 237 PA. CODE § 1148(C) (2018).

<sup>6</sup> *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)

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

<sup>8</sup> See 11 PA. STAT. § 2642 et seq. (2015).

<sup>9</sup> 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).

<sup>10</sup> 237 PA. CODE § 1147 (2018).

<sup>11</sup> 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.”).

<sup>12</sup> See 22 PA. CODE § 4.51(d).

<sup>13</sup> 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>.

<sup>14</sup> See ALTERNATIVE EDUCATION FOR DISRUPTIVE YOUTH, *supra* note xiii.

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

<sup>16</sup> See ALTERNATIVE EDUCATION FOR DISRUPTIVE YOUTH, *supra* note xiii.

<sup>17</sup> See 22 PA. CODE § 12.6(b)(2) (2005).

<sup>18</sup> See 22 PA. CODE §§ 12.6(c)-(d) (2005).

<sup>19</sup> See *id.*

<sup>20</sup> See 22 PA. CODE § 57.31(a) (1988).

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<sup>21</sup> 22 PA. CODE § 4.51(d) (2014).

<sup>22</sup> *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)

<sup>23</sup> 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.”).

<sup>24</sup> See 237 PA. CODE § 1608(D)(1)(k)(vi) (2018).

<sup>25</sup> 237 PA. CODE § 1608 (D)(1)(l).

# CHAPTER 4: POST-SECONDARY EDUCATION AND TRAINING

**Introduction:** Getting a job, earning money, and finding out what you want to do as your career is an important part of growing up. Having some form of postsecondary education is necessary in today's world to be able to get a good job that supports you and your family. This chapter gives you some basic information about the law and how it can help you to make sure you are getting work experience and an opportunity to explore your options for your future and your career.

**Should my transition to adulthood plan include steps to get me ready for college or a training program?**

- **Yes.** Your transition to adulthood plan and transition/discharge plan should include goals around education, including planning for, getting into and paying for higher education and training. (See Glossary: Transition to Adulthood Plan)

**What are some examples of services/supports available to help me get ready for college?**

- Tutoring
- Taking an SAT or ACT prep course
- Help researching and visiting schools
- Help applying to college and/or technical schools
- Help researching financial aid
- Help applying for financial aid and scholarships
- Stipends to help cover expenses related to applying for college or expenses while in college

**What are some examples of services/supports available to help me succeed if I am in college or a training program?**

- Tutoring or finding campus resources for tutoring
- Career and academic counseling
- Help finding and paying for housing or placement during school breaks
- Assistance with applying and managing financial aid and scholarships
- Connecting to mentoring programs and other supportive adults
- Continued mastering of life skills, including budgeting, money management, household management, health, etc.

**Can I be in extended foster care and go to college?**

- **Yes.** Being in college or a training program is one of the eligibility criteria for extended foster care.<sup>1</sup>
- You can attend a college in your county or go away to school and still be in extended care.
- Living in a dorm can be considered a supervised independent living setting.<sup>2</sup>
- Staying in care while you attend college can help you focus on school. It can help with housing and cover many basic expenses. You will also have support from your caseworker and lawyer, and you can get help from the court if you need it.

### **Are there on-campus programs for youth with experience in foster care?**

- **Yes.** Campus-based support programs provide resources and staff support to help young people who may not get assistance from their parents or other guardians after they enter college. These programs are an excellent resource!
- **Staff at these programs have knowledge of the foster care system and the challenges that youth in care face.** The programs provide things like counseling and advising, help navigating college life, help with financial aid, workshops, school supplies and food.
- **Pennsylvania colleges and universities with these kinds of programs include:** Bloomsburg University, Cabrini College, Chestnut Hill College, Community College of Allegheny County—South Campus, Community College of Philadelphia, East Stroudsburg University, Kutztown University, Manor College, Montgomery County Community College, Penn State Abington, Penn State Greater Allegheny, Temple University, West Chester University, and Westmoreland Community College. Find more about these programs here.<sup>3</sup>

### **What are Higher Education Points of Contacts for Youth with Experience in Foster Care and how do I get in touch with them?**

- The Fostering Independence Through Education program requires Pennsylvania colleges and universities to designate points of contact (POCs) at their schools for students who are or have been in foster care.<sup>4</sup> The points of contact will be listed on all college and university websites.<sup>5</sup>
- **The POC is there to help eligible youth who are applying to the school or who are attending the school.** The POC can help you with admissions and financial aid applications, tuition waiver applications; provides information about on-campus and community support services and resources, and serves as a general resource for students who have foster care experience.
- Reach out to the POCs at the schools you are interested in and ask for help with the application process and any financial aid and other services.
- As soon as you get accepted and decide to attend a school in Pennsylvania, contact the school's point of contact so you can establish a relationship and start building your support system.

## What is the Free Application for Federal Student Aid (FAFSA) and why is it important?

- **FAFSA is the gateway to all your financial aid!** Colleges and universities use the Free Application for Federal Student Aid (FAFSA) to determine eligibility for federal, state, and college financial aid. The FAFSA can be filled out online.<sup>6</sup> You can also review the form<sup>7</sup> before you officially complete it online.
- The FAFSA form asks for financial information of students and their families to determine how much federal aid students are eligible to receive. Students who complete the FAFSA are automatically considered for all eligible federal financial aid, including: grants (money that you don't have to pay back), education loans (low interest loans that you will pay back to the federal government), and work-study programs (working on campus).
- Many colleges also use the FAFSA to determine a student's eligibility for specific scholarships and financial aid packages, including state financial aid.

## Why should I identify myself as being in foster care on the FAFSA?

- Identifying yourself can help you qualify for more financial aid and programs that may provide additional support while you are in college.
- Youth who were in foster care at age 13 or older—even if they are no longer in care, were adopted, or left the system to permanency at age 13 or older—are considered *independent* for purposes of the FAFSA, which usually maximizes their financial aid eligibility.

## What does it mean to be considered “independent” on the FAFSA?

- If you identify yourself as having been in foster care, dependent, or a ward of the court at age 13 or older, you will be considered “independent” on the FAFSA.
- Being considered independent means *only your income* will be used to determine your financial aid eligibility. They will not ask for the information of a parent, foster parent, or family member.

## If I identify myself as having been in foster care, who will know that information?

- The information you provide to schools through your FAFSA is confidential. The school can only use this information to determine your financial aid and share relevant information with you.
- When schools know how many youth with foster care experience are on campus, they can provide more services and support for those youth. They can do this without identifying individual students or breaking confidentiality.

## How can I get help completing the FAFSA?

- Ask your IL worker, caseworker, and education liaison.



- Ask your guidance counselor at your high school.
- Ask the Higher Education Points of Contact at the schools you are interested in.
- The Pennsylvania Higher Education Assistance Agency (PHEAA) holds in person events to help students complete the FAFSA and has a resource<sup>8</sup> to find events in PA.
- PHEAA has higher education access partners in all regions of the state. Check out this flyer<sup>9</sup> to find out the representative for the county the youth lives in.
- Here are a few helpful online resources:
  - Federal Student Aid Office: FAFSA Topics<sup>10</sup>
  - NerdWallet FAFSA Guide<sup>11</sup>

### **What is the Pennsylvania Chafee Education and Training Grant Program (ETG) and who is eligible?**

The ETG<sup>12</sup> provides grants of up to \$5,000 each year to youth who are or have been in foster care that are attending post-secondary education and training.

### **What schools or programs can ETG be used for?**

Youth can use this grant at schools in Pennsylvania or anywhere in the country as long as the school is eligible for Title IV- student assistance from the Department of Education.

### **What can ETG be used to pay for?**

These funds can be used to pay for tuition and costs related to attendance of school, like books, housing costs, transportation and childcare.

### **Who is eligible for ETG?**

To qualify, students must have been in foster care at age 16 or older and be under age 26. This includes youth who were in foster care at age 16 or older and left the system to adoption or permanent legal custodianship.<sup>13</sup> To remain eligible you must make satisfactory academic progress as defined by the school or program you are attending.<sup>14</sup>

### **How long can I use ETG?**

A youth can use ETG for up to five years until they attain 26 years of age. The five years does not need to be consecutive (in a row).<sup>15</sup>

### **How do I apply for the Chafee Education and Training Grant Program?**

To apply, you must complete the FAFSA and a separate Chafee Grant application which can be found as an electronic resource.<sup>16</sup>

### **What federal grants other than ETG may I be eligible for to help pay for higher education and training?**

You may be eligible for these federal grants to help pay for college or training. You apply for the following grants by completing the FAFSA:

- **The Pell grant<sup>17</sup> is a federal grant awarded based on financial need.** In addition to completing the FAFSA and demonstrating financial need, to remain eligible for a Pell grant youth need to maintain satisfactory academic progress and be enrolled at least half-time. Check at your school once you enroll to see how the school defines “satisfactory academic progress.” You can use Pell Grants and other federal aid at any school that has been approved by the Department of Education for funding, and you can use Pell Grants to cover tuition and costs related to attending school, like housing, books, transportation, and childcare.
- **The Federal Supplemental Educational Opportunity Grant (FSEOG)<sup>18</sup> is need-based federal grant.** In addition to completing the FAFSA and demonstrating financial need, to remain eligible for the FSEOG youth need to maintain satisfactory academic progress and be enrolled at least half-time. Check in with your school once you enroll to see how they define “satisfactory academic progress.” This grant is administered by the financial aid office of participating schools; most schools across the country offer the FSEOG. Eligible students can receive between \$100-\$4,000. **These funds are awarded on a first come, first served basis—so they do run out.**
- **Work Study is not a federal grant but is paid out through federal funds.** Federal work study provides part-time jobs for undergraduate and graduate students that allow them to earn money to help pay for education expenses. This is available for both full-time and part-time students.

**What state grants am I eligible for?**

- **The Pennsylvania State Grant<sup>19</sup> is offered by the Pennsylvania Higher Education Assistance Agency (PHEAA) to all students and is based on financial need.** In addition to showing financial need, you are eligible if you have lived in Pennsylvania in the last 12 months and have graduated high school or received an equivalent credential, like a GED. To maintain eligibility, you need to maintain satisfactory academic progress. Students must be enrolled in school at least half-time to qualify. You can use the state grant at schools in Pennsylvania. You can also use the state grant at some out-of-state schools, but the award amount is much less. To apply, fill out the FAFSA and a separate state grant application.<sup>20</sup>
- **Pennsylvania Targeted Industry Program (PA-TIP) provides grants for students to receive training in the following high-demand fields: energy, advanced materials and diversified manufacturing, and agriculture and food production.** The award is for programs that last 10 weeks to two years. The maximum award a student can receive is 75% of the cost of the program or the maximum of the Pennsylvania State Grant

described above. You can receive the State Grant or PA-TIP—not both. Eligibility for PA-TIP is similar to the Pennsylvania State Grant. Nearly 100 schools and programs are covered by this grant—check out this link<sup>21</sup> to find schools and programs. You can apply for the Pennsylvania Targeted Industry Program (PA-TIP) by filling out the FAFSA and a PA-TIP application.<sup>22</sup>

### **What is The Fostering Independence Through Education Program?**

- This is Pennsylvania’s Tuition Waiver program for youth who have been in the foster care system.<sup>23</sup>
- The program waives tuition and mandatory fees for eligible youth and young adults. Waived tuition and fees means you do not have to pay a portion of your tuition bill. The waiver waives or “erases” a part of your tuition bill.
- The program also requires that all schools or programs covered by the waiver have Foster Care Points of Contact who will help youth apply for the waiver and find other supports and services on campus.

### **Who is eligible for the Tuition Waiver?**

- Youth and young adults are eligible for the waiver if they are eligible for the Pennsylvania Chafee Education and Training Grant Program.
- Eligible youth include youth who were in foster care in Pennsylvania at age 16 or older, including youth who were adopted or entered permanent legal custodianships when they were age 16 or older.
- Youth must apply for all available Federal and State grants in order to be eligible for the Tuition Waiver. This includes filling out the FAFSA<sup>24</sup> form, and completing the Chafee Education and Training Grant Program Application.

### **How does the tuition waiver work?**

The tuition waiver “waives” or “erases” any amount of tuition and mandatory fees that are left **after** the school counts the federal and state aid, and scholarships a student receives.

### **What schools are covered by the tuition waiver?**

Pennsylvania community colleges, universities, or technical schools<sup>25</sup> that are approved by the United States Department of Education for federal Title IV financial aid. A full list of Title IV approved schools is available online, but the tuition waiver can only be used at schools in Pennsylvania.

### **How long can I use the tuition waiver?**

The waiver can be used for up to five years until a young person reaches age 26. The years do not have to be consecutive (in a row).<sup>26</sup>

### **What costs can the tuition waiver be used for?**

The program only waives tuition and mandatory fees. It does not cover other areas of a student's cost of attendance, including room and board.

The program waives the tuition that remains only after federal financial aid and scholarships are applied to the cost of tuition. Only what remains is waived.

Mandatory fees include application fees.<sup>27</sup>

### **How do I apply for the tuition waiver?**

Students should do the following until further information is provided:

1. Complete the FAFSA.<sup>28</sup>
2. Enroll in an eligible PA postsecondary institution.
3. Complete the Chafee Education and Training Grant Program Application, which is released in April of each year.
4. Mail or fax your completed Chafee application as soon as possible, but no later than December 31, 2020 to:

PHEAA  
Chafee Program  
State Grant and Special Programs  
P.O. Box 8157  
Harrisburg, PA 17105-8157  
Fax: (717) 720-3786

### **When will the waiver program begin?**

It will be effective in fall of 2020.

### **How can I get help with the tuition waiver?**

Here are a few people who can provide help:

1. **Fostering Independence Through Education Points of Contact—or Higher Education Points of Contact**

The law requires that points of contact be designated at every school covered by the waiver.<sup>29</sup> The designated points of contacts have the following responsibilities:

- Assist students in obtaining verification from the courts, county agency, or the Department of Human Services regarding their eligibility for the tuition waiver.

- Assist students with accessing Federal and State financial aid resources and identify further scholarship and grant opportunities for eligible students.
- Serve as students primary contact.
- Provide information and referrals for on-campus support services and resources, including admissions, housing, financial aid, health, mental health, tutoring, career, academic advising and other services.
- Provide information and referrals for off-campus support services, including transitional housing, medical insurance and services.

The Point of Contact information can be found on the school's website. Points of Contact at many, but not all Pennsylvania schools, are also available here.<sup>30</sup>

## 2. **Your caseworker**

Your caseworker is responsible for supporting you in transition to adulthood planning, which includes planning for higher education and training. Your caseworkers should educate you about the waiver, help you apply for it and get assistance from Points of Contact.

## 3. **Your independent living worker**

Along with your caseworker, your IL worker should assist you with transition planning, including planning for higher education and training. IL workers have great expertise in providing support in this area and will be a great source of assistance as you apply for the waiver.

### **What are scholarships?**

- Scholarships are money from colleges, universities, community-based organizations, churches, or businesses to help pay for college or a training program. Scholarships can be given based on different factors such as financial need, ethnicity, special talents, academic performance, leadership ability, or personal life experiences.
- Scholarships usually do not have to be paid back.

### **What are scholarships?**

Scholarships are money from colleges, universities, community-based organizations, faith communities, or businesses to help pay for costs associated with higher education or training programs. Scholarships can be given based on different factors such as financial need, ethnicity, special talents, academic performance, leadership ability, or personal life experiences. Usually, scholarships are funds that do not have to be paid back.

### **What are tips and resources for finding general scholarships?**

There are many scholarships and scholarship search engines.

Try these free sources of information about scholarships:

- the financial aid office at a college or career school
- a high school or TRIO counselor
- the U.S. Department of Labor’s FREE scholarship search tool<sup>31</sup>
- federal agencies<sup>32</sup>
- your state grant agency<sup>33</sup>
- your library’s reference section
- foundations, religious or community organizations, local businesses, or civic groups
- organizations (including professional associations) related to your field of interest
- ethnicity-based organizations
- your employer or your parents’ employers

The following are some frequently used for scholarships:

Collegeboard.com

Collegenet.com

Fastweb.com

Scholarships.com

ScholarshipMonkey.com

OnTrackpse.com

Scholly App (website and cell phone application)

**Are there schools that provide eligible students with 100% of financial aid to cover the cost of attendance?**

Yes. Many schools, including religious institutions, provide full financial aid to students who qualify. Professionals and advocates are highly encouraged to call financial aid offices of any school their youth may be interested in attending to determine if the school provides full financial aid and if their youth qualifies. Below are just a few schools that will provide financial aid for the full cost of attendance for students who are eligible however this list is by no means fully exhaustive:

Amherst College; Bowdoin College; Brown University; Colby College; Columbia University; Davidson College; Harvard University; Massachusetts Institute of Technology; Northwestern University; Pomona College; Princeton University; Stanford

University; Swarthmore College; University of Chicago; University of Pennsylvania; US Air Force Academy; US Naval Academy; Vanderbilt University; Washington and Lee University; West Point; Yale University

### **What are some scholarship resources that target youth in foster care?**

- i) National Foster Parent Association provides a scholarship for foster parent members designed to help youth in foster care pay for education after high school.<sup>34</sup>
- ii) Foster Care to Success offers the Casey Family Scholarship. Youth in foster care applying to post-secondary education are eligible.<sup>35</sup>
- iii) Project Fairness offers a scholarship for current and former foster youth with a broad range of educational goals.<sup>36</sup>
- iv) The Pennsylvania State Resource Family Association offers the PSRFA Scholarship specifically for Pennsylvania based youth in foster care for dues paying members.<sup>37</sup>
- v) The Field Center has a resource guide of Pennsylvania based scholarships that youth in foster care may be eligible for.<sup>38</sup>
- vi) CollegeScholarships.org provides a list of national scholarships that foster youth may be eligible to receive.<sup>39</sup>

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<sup>1</sup> 42 Pa.C.S.A. § 6302 (criteria for extended foster care includes: being “enrolled in an institution which provides postsecondary or vocational education.”).

<sup>2</sup> Independent Living Services Guidelines, Office of Children, Youth and Families Bulletin, 3130-14-01, page 10 (Dec. 8, 2014) (dorm living can be considered an unlicensed supervised independent living setting for youth in extended foster care).

<sup>3</sup> The Field Ctr. for Children’s Policy, Practice and Research, *Campus Programming Directory for Foster Youth* (2019), <https://fieldcenteratpenn.org/wp-content/uploads/2019/09/2019-DIRECTORY.pdf>

<sup>4</sup> 24 P.S. § 26-2604-K.

<sup>5</sup> 24 P.S. § 26-2604-K (6).

<sup>6</sup> *Complete the FAFSA form*, U.S. DEP’T OF EDUC., <https://studentaid.gov/h/apply-for-aid/fafsa> (last visited June 4, 2020)

<sup>7</sup> U.S. Dep’t of Educ., *FAFSA*, (2020), <https://studentaid.gov/sites/default/files/2020-21-fafsa.pdf>

<sup>8</sup> *FAFSA completion help events*, PA. HIGHER EDUC. ASSISTANCE AGENCY, <https://www.pheaa.org/college-planning/fafsa/help-events.shtml> (last visited June 4, 2020)

<sup>9</sup> Pa. Higher Educ. Assistance Agency, *Pennsylvania School Services* <https://www.pheaa.org/partner-access/k12-counselors/pdf/PA-School-Services-Access-Partner-brochure.pdf>

<sup>10</sup> *Filling out the FAFSA*, U.S. DEP’T OF EDUC., <https://studentaid.gov/apply-for-aid/fafsa/filling-out> (last visited June 4, 2020)

<sup>11</sup> *How to get free money for college*, NERDWALLET, <https://www.nerdwallet.com/blog/fafsa-guide/> (last visited June 4, 2020)

<sup>12</sup> 42 U.S.C.A. § 677(i). The federal Chafee program is called Education and Training Vouchers (ETV). In Pennsylvania, the program is called Education and Training Grant to make clear that this is a grant program.

<sup>13</sup> 42 U.S.C.A. § 677(i)(2). In Pennsylvania, guardianship is often referred to as subsidized or unsubsidized permanency legal custodianship. (PLC or SPLC).

<sup>14</sup> 42 U.S.C.A. § 677(i)(3).

<sup>15</sup> 42 U.S.C.A. § 677(i)(3).

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- <sup>16</sup> *Pennsylvania Chafee Education and Training Grant Program*, PA. HIGHER EDUC. ASSISTANCE AGENCY, <https://www.pheaa.org/funding-opportunities/other-educational-aid/chafee-program.shtml> (last visited June 4, 2020).
- <sup>17</sup> *Federal Pell Grants are usually awarded only to undergraduate students*, U.S. DEP'T OF EDUC., <https://studentaid.gov/understand-aid/types/grants/pell> (last visited June 4, 2020).
- <sup>18</sup> *A Federal Supplemental Educational Opportunity Grant (FSEOG) is a grant for undergraduate students with exceptional financial need*, U.S. DEP'T OF EDUC., <https://studentaid.gov/understand-aid/types/grants/fseog> (last visited June 4, 2020).
- <sup>19</sup> *Pennsylvania State Grant Program*, PA. HIGHER EDUC. ASSISTANCE AGENCY, <https://www.pheaa.org/grants/state-grant-program/apply-renew.shtml> (last visited June 4, 2020).
- <sup>20</sup> *Pennsylvania State Grant Program, Apply/Renew Now*, PA. HIGHER EDUC. ASSISTANCE AGENCY, <https://www.pheaa.org/grants/state-grant-program/index.shtml> (last visited June 4, 2020).
- <sup>21</sup> *Eligible Schools and Approved Programs of Study*, PA. HIGHER EDUC. ASSISTANCE AGENCY, <https://www.pheaa.org/funding-opportunities/pa-tip/eligible-schools.shtml> (last visited June 4, 2020).
- <sup>22</sup> *Pennsylvania Targeted Industry Program*, PA. HIGHER EDUC. ASSISTANCE AGENCY, <https://www.pheaa.org/funding-opportunities/pa-tip/index.shtml> (last visited June 4, 2020).
- <sup>23</sup> 24 P.S. § 26-2602-K.
- <sup>24</sup> Complete the FAFSA form, *supra* note vi.
- <sup>25</sup> 24 P.S. § 26-2601-K (definitions).
- <sup>26</sup> 24 P.S. § 26-2602-K (b).
- <sup>27</sup> See *Fostering Independence Tuition Waiver Program*, PA DEP'T OF EDUC, <https://www.education.pa.gov/Postsecondary-Adult/CollegeCareer/FosteringIndependence/Pages/default.aspx> (last visited June 4, 2020) (the waivers “also cover college application fees.”).
- <sup>28</sup> Complete the FAFSA form, *supra* note vi.
- <sup>29</sup> 24 P.S. § 26-2604-K (Point of Contact).
- <sup>30</sup> *Higher Education and Single Point of Contact Directory*, CTR. FOR SCHS. AND CMTYS., <https://directory.center-school.org/fostercare/highereducation/search>, (last visited June 4, 2020)
- <sup>31</sup> *Careeronestop*, U.S. DEP'T OF LABOR, <https://www.careeronestop.org/toolkit/training/find-scholarships.aspx> (last visited June 4, 2020).
- <sup>32</sup> *Types of Financial Aid*, U.S. DEP'T OF EDUC., <https://studentaid.gov/understand-aid/types#federal-aid> (last visited June 4, 2020).
- <sup>33</sup> *State Contacts*, U.S. DEP'T OF EDUC., <https://www2.ed.gov/about/contacts/state/index.html> (last visited June 4, 2020).
- <sup>34</sup> *Become a Foster Parent*, NAT'L FOSTER PARENT ASS'N, <https://nfpaonline.org/> (last visited June 4, 2020).
- <sup>35</sup> *America's College Fund for Foster Youth*, FOSTER CARE TO SUCCESS, <https://www.fc2success.org/> (last visited June 4, 2020).
- <sup>36</sup> *Scholarship application*, PROJECT FAIRNESS, <https://projectfairness.org/scholarship-application/> (last visited June 4, 2020)
- <sup>37</sup> *Hearts & Homes*, PA. STATE RES. FAMILY ASS'N, <http://www.psrfa.org/> (last visited June 4, 2020).
- <sup>38</sup> *Foster Care to College: Fostering Success for the Future*, THE FIELD CTR. FOR CHILDREN'S POLICY, PRACTICE, AND RESEARCH, <https://fieldcenteratpenn.org/fostercaretocollege/> (last visited June 4, 2020).
- <sup>39</sup> *Scholarships for Foster Kids*, COLLEGE SCHOLARSHIPS.ORG, <http://www.collegescholarships.org/scholarships/foster.htm> (last visited June 4, 2020).



# CHAPTER 5: EMPLOYMENT & GETTING A JOB

Introduction: Getting a job, earning money, and finding out what you want to do as your career is an important part of growing up. This chapter gives you some basic information about the law and how it can help you to make sure you are getting work experience and an opportunity to explore your options for your future and your career.

## Can I work and get job experience while I am in foster care?

- Yes! You should have the opportunity to work and gain job skills just like any youth or young adult.
- You can get informal experience through paid chores, taking odd jobs, volunteering, and internships.
- Gaining work skills, finding a job, and figuring out what jobs and careers you may like as an adult are part of the transition to adulthood services you should receive and that the court should be asking about at each permanency review hearing.<sup>1</sup>
- The law also requires that youth in foster care have the opportunity to participate in activities and experiences that are age-appropriate.<sup>2</sup> Having the opportunity to get work experience and have a job are among the experiences all young people, including those in foster care, should have.
- The Children in Foster Care Act states that youth in foster care should have the opportunity to work and develop job skills at an age-appropriate level.<sup>3</sup>

## How do I get a work permit if I am under age 18 and want to get a job?

- Anyone age 14-17 must have a work permit in order to be legally employed in Pennsylvania.<sup>4</sup> Work permits are issued through the school district where you live.
- To obtain a work permit, contact your school's guidance counselor for an application or visit your school district's website. Your guidance counselor will review that application and issue your work permit.
- Your parent/legal guardian will have to sign the application in front of the school counselor. If your parents are unable to sign the application, your caseworker may be able to sign the form. Contact your caseworker and lawyer if you are having trouble finding someone to sign.

## I want to learn a trade or get technical skills while in high school. What are my options?

- Pennsylvania has more than 80 career and technical education centers (CTCs) that offer public school-approved programs to students. You can graduate with your diploma and certifications in certain fields at these high schools. Training is offered in many areas, including computer programming, cosmetology, sports medicine, veterinary science, culinary arts, and heating and ventilation.

- Each school serves certain school districts, offers different programs, and has their own admissions requirements. Check out this comprehensive list of CTCs in Pennsylvania (linked in endnote) to find programs in your county.<sup>5</sup>
- Check out the Pennsylvania Department of Education’s Career and Technical Innovation website (linked in endnote) to learn more about CTCs.<sup>6</sup>

**I am out of school. Where do I go for help finding a job or getting job training?**

- Start by checking with your school district to see what options there are for training and for help getting a job. Some schools provide a lot of hands-on training and help with getting employment.
- You can also check out your local CareerLink Office.<sup>7</sup> These offices are in most counties and can help individuals find jobs and get training. Ask if your local CareerLink Office has a Youth or Young Adult Programs.

**What is the Office of Vocational Rehabilitation (OVR), what services do they offer, and how can I access them?**

- OVR provides vocational rehabilitation services to help adults with disabilities prepare for, obtain, or maintain employment. Vocational rehabilitation services are services that help people deal with any barriers or challenges they are having to get or keep a job.
- OVR provides some services directly and contracts with other providers as well. There are OVR offices across the state. To find your nearest OVR office, visit the Pennsylvania Department of Labor and Industry’s OVR Office Directory webpage.<sup>8</sup>
- OVR can directly provide or fund other agencies to provide an array of services. For OVR to provide or pay for the services, such services must be included in a vocational or service plan. Examples of training and services include:
  - Vocational exploration and training
  - Career and interest assessments
  - Trial-work experiences
  - On-the-job training
  - Job coaching
  - Supported employment
  - Career planning
  - Counseling, guidance, and referrals
  - Technology support (aids, devices, training)
  - Assistance with transportation to services or programs
  - College attendance
  - Medical and psychological diagnosis and treatment
  - Job placement
- Adults (age 18 and older) are eligible for OVR services.

- To get help applying for and accessing OVR services, talk to your lawyer or contact the **Client Assistance Program (CAP)**.<sup>9</sup> They advocate for individuals who want to receive OVR services.
  - **If you want to get OVR services right when you turn 18, it's important to get set up with OVR before your 18<sup>th</sup> birthday.** You can receive OVR supports even if you are attending high school past age 18!

### **How is the court involved in making sure I am getting the opportunity to get a job and explore a career?**

- Beginning at age 14, the judge in your case should ask you about your transition to adulthood skills and needs, what your goals are, and how you are getting help or services to meet those goals. This includes “job-readiness services” and an update on your “employment/career goals.”<sup>10</sup>
- The judge can order that actions be taken and services 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 job skills, a job, or exploring your career options, 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.

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<sup>1</sup> See 237 PA. CODE § 1608(D)(1)(k)(vii) (2018) (for all youth age 14 and older, the court should make findings at each permanency review hearing about the job-readiness services that have been provided to the child and the employment/career goals that have been established).

<sup>2</sup> See 11 PA. STAT. § 2644(a) (2015).

<sup>3</sup> See Children in Foster Care Act of 2010, 11 PA. STAT. § 2633(14) (2011).

<sup>4</sup> See 43 PA. STAT. § 40.8 (2013) (duties of employer); 43 PA. STAT. § 40.9 (2013) (work permit).

<sup>5</sup> A Comprehensive List of Career and Technical Education Centers in Pennsylvania, GOOGLE MAPS, <https://www.google.com/maps/d/u/1/viewer?mid=1La30REnkRewXhmDTkInc7wfZHaLgHpud&ll=40.56331018145515%2C-78.292852621875&z=7>.

<sup>6</sup> PENNSYLVANIA DEPARTMENT OF EDUCATION, CAREER AND TECHNICAL INNOVATION, <https://www.education.pa.gov/K-12/Career%20and%20Technical%20Education/Pages/default.aspx>.

<sup>7</sup> PENNSYLVANIA CAREERLINK, <https://www.pacareerlink.pa.gov/jponline/>.

<sup>8</sup> PENNSYLVANIA DEPARTMENT OF LABOR AND INDUSTRY, OVR OFFICE DIRECTORY, <https://www.dli.pa.gov/Individuals/Disability-Services/ovr/Pages/OVR-Office-Directory.aspx>.

<sup>9</sup> PENNSYLVANIA CLIENT ASSISTANCE PROGRAM, <https://www.equalemployment.org>.

<sup>10</sup> 237 PA. CODE § 1608(D)(1)(k)(vii) (2018).

# CHAPTER 6: YOUTH WITH DISABILITIES

**Introduction:** Youth with disabilities have the same hopes and dreams that all youth do, but may face additional barriers to success, especially if they are in the foster care system. There are many laws and programs that can help young people with disabilities make a successful transition to adulthood. This chapter provides information on the laws that prohibit discrimination or bad treatment of individuals with disabilities, laws and programs that support educational success, and how to access Supplemental Security Income (SSI) as part of your plan for a successful transition to adulthood.

## I. Basic Rights and Protections for Individuals with Disabilities

### **Are youth with disabilities in foster care protected from discrimination?**

- **Yes.** State and federal law protect youth in foster care from discrimination on the basis of a disability.
- Under state law, the Foster Care Bill of Rights provides all children in foster care with freedom from discrimination on the basis of a disability.<sup>1</sup>
- Under federal law, the Americans with Disabilities Act (ADA)<sup>2</sup> and Section 504 of the Rehabilitation Act<sup>3</sup> prohibit discrimination on the basis of a disability. The ADA applies to most public services, including all foster care services, and Section 504 applies to all programs or activities that receive money from the federal government.

### **What are my rights under the laws that protect me from disability discrimination?**

Under these federal laws, child welfare agencies and organizations or programs that receive federal money are not allowed to exclude a young person from participating in a program or receiving services because they have a disability.<sup>4</sup> This means that, if you have a disability:

- The child welfare agency has to offer you the same services as everybody else, including transition to adulthood services and permanency services.
- If your disability makes it hard for you participate in a program or service, the agency must make “reasonable accommodations” or “reasonable program modifications” to help you participate. This means the agency may have to change some parts of the program or give you some additional services or support to help you participate.
- The child welfare agency has to offer you services in “the most integrated setting” that can meet your needs.<sup>5</sup> This means that you cannot be placed in a group home or an institution just because you have a disability. The agency can only place you in an institution if your health needs cannot be met in a family-based placement.

## What should I do if I have been discriminated against because of a disability?

There are several things you can do if you have been mistreated, treated unfairly, or are unable to access a program or service because of a disability:

- **Discuss it at a case planning meeting.** Your case plan is a place where your needs are written down and services and supports to meet your needs and goals are also identified. If you feel that your disability needs are not being addressed, your case plan should be changed to include these issues.
- **Tell your lawyer.** Your lawyer can help advocate for you to the child welfare agency or program/service provider and can raise the issue in court. For more information about working with your lawyer. (See Chapter 19: Lawyers, Court, and Case Planning)
- Tell your judge in court. The judge needs to enforce the laws that protect you from discrimination. At your permanency reviews, the judge must also ask about any disability needs you have and make sure plans are in place to address those needs.<sup>6</sup>
- **File a grievance.** If you face discrimination from an institution or a provider, raise that issue in a formal grievance. For more information on how and when to file a grievance, see. (See Chapter 17: Getting Your Voice Heard)

**Call Disability Rights Pennsylvania (DRP).** DRP is the “Protection and Advocacy” (P&A) organization in Pennsylvania. Each state is required under federal law to have a P&A to help advocate for and protect the rights of people with disabilities. They can explain the different ways you may be able to get help and fight for your rights. You can contact DRP at 1-800-692-7443 or through their online intake form, available on the Disability Rights Pennsylvania website.<sup>7</sup>

## Will my disability affect my placement options?

- Youth with disabilities have all the same placement options as their peers, and just like their peers they are entitled to be placed in the least restrictive, most family-like placement that can meet their needs.<sup>8</sup>
- Youth with disabilities are also required under federal disability law to be provided services in “the most integrated setting” possible. “Most integrated” means the placement that offers the most contact with family, non-disabled peers, and the community. Here are some possible community-based placement options for youth in foster care who have disabilities:
  1. Family Foster Care or Kinship Care: Youth with disabilities can be placed in family foster homes, or with kin, just like their peers. If a foster parent or kinship placement needs additional training or support to be able to help you with your disability, they should ask your lawyer or caseworker for help accessing those services.

2. Medical Foster Care: Many counties offer Medical Foster Care programs, which are foster families with special training to help take care of youth with chronic medical conditions.
  3. Therapeutic/Treatment Foster Care or Specialized Behavioral Health: Different counties use different names but most have special family foster care programs for youth with mental or behavioral health needs. Like with Medical Foster Care, these foster parents receive extra training and support to help them take care of youth with these conditions.
  4. Supervised Independent Living (SIL): SILs are living settings for youth age 18-21 and can be options for youth with disabilities too! Ask your caseworker or attorney about the options available in your county.
- In any of your placements, you may need modifications to the standard services or facilities to accommodate your disability—things like wheelchair accessibility, additional training for resource parents, or transportation training. Ask if these modifications are possible and ask your lawyer to advocate for you if they are denied. (See Chapter 2: Rights When You Are Placed In Foster Care)
  - Sometimes youth enter the system because their family has a hard time meeting their needs. If your family needs a service or support so that they can care for any special needs related to a disability, let your lawyer know so they can advocate that these services be put in place, including services and supports that would make reunification possible.

**What if I am placed in a Residential Treatment Facility (RTF), group home, or other institutional placement?**

- Children and youth deserve to live with family and in the community.
- It should be rare that you are placed in a group setting. These placements are the most restrictive type of placement and all efforts should be made so you can be with a family or non-group setting.
- You should not be placed in group care just because you have a disability.
- Sometimes, youth with disabilities need treatment in a hospital or an RTF. Treatment is different than placement. Having a medical or behavioral health need that requires treatment in a facility does not mean that you must be placed in group care. Some young people need in-patient treatment for a limited time and then return to family-based placements.
- If you are in a group care setting or you feel like your placement is not meeting your needs, talk to your caseworker and lawyer so you can think about other placement options.

## Do I have a right to the medical or behavioral health services needed to help with my disability?

- The child welfare agency is required to meet the health care needs—including the mental health care needs—of all children and youth in foster care. Here are some of the specific legal protections that can help ensure you get the health care and services you need for your disability:
  - Federal law requires states to have a “plan for ongoing oversight and coordination of health care services” for all children and youth in foster care.
  - The plan must include a schedule for health screenings, steps needed to ensure you continue to get services even if your placement changes, and a plan for using psychotropic medications.<sup>9</sup>
  - Your case plan must include information about any disabilities you may have and any health or behavioral health care needs.<sup>10</sup>
  - Your transition plan must include certain health-related information, like:
    - who will make treatment decisions for you when you leave care if you are not able to,
    - whether you have physical health or behavioral health needs that will require continued services into adulthood, and
    - a plan to ensure that any health care and disability needs will be met.
  - The child welfare agency must provide you with services to help you prepare for how your health needs will be met when you leave care.<sup>11</sup> These services could include things like helping you apply for SSI or connecting you with the Office of Vocational Rehabilitation (OVR). (See Chapter 9: Planning for the Future Transition to Adulthood and Discharge Planning)
  - The court should also ask about your health disability needs and make sure there is a plan to ensure those needs are met.<sup>12</sup>
- **If you are on Medicaid while in care, you are entitled to all medically necessary services until age 21.**<sup>13</sup> For more information on health insurance and health services. (See Chapter 7: Health Insurance, Access to Treatment and Care, and Consent to Treatment)

## How can I make sure my disability and other health needs are met after I leave the foster care system?

- **It’s very important that you begin preparing for your discharge from the system as early as possible, particularly if you have a disability.** Many of the places you get services for your disability while in the foster care system may change when you leave the system, especially if you are leaving care as an adult.

- **Talk to your caseworker and attorney about planning for how your health needs will be met when you leave the system, and make sure that topic is discussed at your court hearings.** You can also check out Juvenile Law Center’s resources on transition planning for youth with disabilities, including our guide: Transition Planning for Youth with Disabilities from the Child Welfare System to Adulthood.<sup>14</sup>
- **Make sure you have a good transition plan before your discharge from care.** Make sure that the transition plan contains details on how all your health and disability needs will be met, including:
  - Health insurance coverage.
  - Plans for how any treatment needs will be met.
  - Applications for financial benefits.
  - Arrangements for supportive housing.
- **Let your lawyer and judge know if you do not have a transition plan that addresses your health and disability needs. The Judge cannot close your case unless your transition plan covers these required elements.**<sup>15</sup>

## II. Special Rights and Protections Related to Education

### **Do I have a right to any services or supports to help with my disability at school?**

- Yes, if you meet certain requirements. There are at least two ways to get help at school if you have a disability. They are called an Individualized Education Plan and a 504 Plan.
- An Individualized Education Plan, or “IEP,” is a plan for the special education and related services needed to ensure that a child with a disability gets an appropriate education. Federal law requires states and school districts to identify children with disabilities, follow the process required to develop an IEP, and provide all of the services in the IEP.<sup>16</sup> In Pennsylvania, beginning at age 14, these services must include “transition services” to help youth meet their goals for after they leave high school and go on to college, training or work.<sup>17</sup> You only have an IEP until you finish high school. You will not have an IEP in college or a training program after you graduate from high school. (See Chapter 3: Education and Getting to Graduation). For more information about IEP transition plans, check out this toolkit, “Developing an IEP Transition Plan.”<sup>18</sup>
- A 504 Accommodations Plan is a plan that an individual with a disability can create to help reduce barriers to individuals with disabilities can participate in an activity or program.<sup>19</sup> 504 plans can be used in high school or in college, but you have to ask for them and work with the school to develop the plan. For more information about 504 plans, see below.



## Who qualifies for special education services?

- Youth are eligible for special education if they have a disability and, as a result of the disability, require “specially designed instruction” to learn and participate in school.<sup>20</sup>
- If you think you need special education services, your parent or education decision maker should request an evaluation from the school in writing. Other people, like your caseworker or resource parent, can request that you be evaluated, but only your education decision maker can sign the “Permission to Evaluate” form. (See Chapter 3: Education and Getting to Graduation)
- If you don’t have an educational decision maker or the evaluation does not happen because of some other problem, let your school and your lawyer know so the issue can be addressed in court.

## What happens if I am eligible for special education services?

- If you are eligible for special education services, you will have an Individualized Education Plan (IEP) that describes the type of instruction you need and any other services that will allow you to receive a Free and Appropriate Public Education (FAPE).
- **You should receive these services in the Least Restrictive Environment (LRE).** This means that you should be placed in regular education classes to the greatest extent possible.
- The services you receive should help you make progress and achieve your goals, including progressing with your peers, attending college or a trade school, and acquiring job skills to pursue a career.
- Make sure you participate in all IEP meetings. That is where the decisions are made about what services and supports you will receive. IEP meetings happen at least once per year, but you can ask for a meeting when you want to make a change in your IEP.

## What is a 504 Accommodations Plan?

- A 504 accommodations plan is a plan that includes steps that the school, college, program or organization needs to take to help an individual with a disability take part in the program or services provided. It’s also called a “504 Plan,” “Service Plan,” or an “Accommodations Plan.”
- A 504 Plan is different than an IEP for at least two reasons:
  - A 504 plan can be developed in high school, college or most anywhere while an IEP only exists in high school.
  - A 504 plan includes steps to take to remove barriers rather than specific services.
- The type of accommodations in a 504 Plan depend on the student’s needs and what will help them learn and be successful in the program.

## Who will come to my IEP meetings?

- **Your parents should still come to your IEP meetings, even if you are in foster care.** They will continue to make decisions regarding special education if they are active and involved.
- **Your foster parent should attend IEP meetings, too.** If your parents are not active and involved, your foster parent, a court-appointed Educational Decision Maker, or a “surrogate parent” appointed by a school district will make decisions about your educational services. (See Chapter 3: Education and Getting to Graduation)
- If you are an unaccompanied youth experiencing homelessness, your school must appoint a surrogate parent. You can recommend who that person should be.
- You have the right to invite supportive adults in your life to participate in your IEP meetings. If there are other people who play a role in your life and education, you can invite them to attend the IEP meetings, and your school must allow them to participate.
- Your voice matters! Your educational decision maker should make decisions based on your input.

## What is the transition planning requirement in the IEP?

- In addition to having a transition to adulthood plan and a discharge plan, **youth in care who are eligible for special education services beginning at age 14 also have a right to a transition plan in their IEP.**<sup>21</sup> This transition plan is focused on your education and can give more support for you to discover and achieve your post-high school goals.

## What must be included in the transition plan in the IEP?

- The transition plan in the IEP includes activities that help you move from high school to college, job or career training, independent living, and work.
- Your transition plan must include goals related to:
  - Post-secondary education or training, including a 2- to 4-year university, community college, technical school, or anything that furthers your education.
  - Employment, including goals for getting a job and finding a career.
  - Independent living, including getting around in the community, using community resources, and accomplishing daily tasks that an adult needs to live as independently as possible.
  - Community participation, including participation in activities, clubs, and community events, such as church and cultural events.
  - Adult service connections, including connecting with agencies and services that you will need as you become an adult. For example, this could include OVR or the Social Security Administration (SSA).

### **What are some examples of goals that could be in the transition plan in my IEP?**

- **Your goals should be based on your interests and hopes for your future career and life skills.** Take some time to think about your goals as an adult. Research and ask questions to figure out what you will need to do or to achieve those goals.
- **Use “Developing an IEP Transition Plan,” to brainstorm some ideas for your transition plan.**<sup>22</sup> Examples of goals:
  - Selecting and applying to 5 colleges.
  - Getting an internship in a career area that interests you while in school.
  - Maintaining a job.
  - Learning money management and budgeting.
  - Learning to use public transportation.
  - Learning how to manage your health care needs.

### **Is the transition planning requirement in my IEP different than my transition to adulthood and discharge plans?**

- While this plan will have goals that overlap with the transition to adulthood plan, and the discharge plan- the transition plan in the IEP is focused on the transition from school to work or to post-secondary education and training.

### **Who can help me advocate for a good transition plan in my IEP?**

- You will be your best advocate and should actively participate in all IEP meetings, including those about your transition plan.
- Tell the IEP Team your goals and what you want to do after graduation. It’s the team’s job to help you get there.
- Your education decision maker is required to be at these meetings and help you advocate for an excellent transition plan. Meet with that person *before* the IEP meeting to talk about what you want.
- Let the judge in your case know if you are not getting the special education services you need, including transition services in your IEP. The judge can order that action be taken to help advocate for the services you need.

### **What can I do if I need help getting my education needs met if I have a disability?**

- **If you feel like you are not getting the supports you need to succeed in school, talk to your lawyer.** Your lawyer can help advocate to get the services you need and can also raise education concerns at your court hearing.

- **Make sure you have an “education decision maker” or “EDM.”** If you aren’t sure, ask your lawyer or caseworker. The judge can appoint an EDM if you need one and that person can be a great advocate for you.
- **Raise concerns you have at court.** At your permanency hearings, the judge must ask you about your educational and disability needs and make sure that there is a plan in place to make sure those needs are met.<sup>23</sup> The judge can order that actions are taken to address your needs.

### III. Disability and SSI

#### What is Supplemental Security Income (SSI), and how can it help me?

- SSI is federal needs-based program for children and adults with very low income and resources who are disabled, blind, or age 65 or older.
- **Eligible individuals receive money each month.** Depending on the individual’s income, a monthly SSI payment can be up to \$800.
- **These payments can provide an important source of stability for youth transitioning out of the foster care system.** SSI payments can be used for expenses, such as housing, and can be a path to other resources like Medicaid, food stamps, and supportive housing programs.

#### Who is eligible for SSI?

- **There are two main parts to an SSI eligibility determination: disability and income.**
  1. **Disability:** You might meet the disability requirement if you:
    - Have a behavioral health condition, physical disability, and/or cognitive impairment; **and**
    - That disability makes it hard for you to do some tasks to meet your needs each day or to work if you are age 18 or older.
  2. **Income:** You may meet the income requirement if you have very low income. To be eligible for SSI, you also cannot have more than \$2000 saved.
    - **Youth in foster care, even if they have very low income, often do not meet the income requirement for SSI eligibility while they are in care** because federal foster care payments (the money the federal government pays for your foster placement and other expenses) count as “income” for SSI.
    - **BUT, you might become eligible when you leave care,** and the federal government lets youth in foster care apply for SSI *before* leaving care to

ensure you can receive the money as soon as you are discharged. For more information about applying for SSI.

3. **There are some additional eligibility requirements that also might apply, such as citizenship.** (See Chapter 13: Immigration)
4. **Eligibility requirements are slightly different for children and for adults.** If you were receiving SSI as a child, your eligibility will be “redetermined” when you turn 18. For more information on the “Age 18 Redetermination,” see “What You Need to Know About Your Supplemental Security Income (SSI) When You Turn 18.”<sup>24</sup>

### **What should I do if I think I may be eligible for SSI and want to apply?**

If you think you might be eligible for SSI, talk to your lawyer or caseworker and ask for more information about SSI eligibility and help to apply.

### **What is the process for applying for SSI for youth in foster care?**

- Applying for SSI is complicated, and you should begin preparing early and get help from your lawyer or caseworker.
- Some youth might be eligible for SSI while they are still in foster care, but many youth will not be able to receive SSI benefits until they leave care, because of the income eligibility requirement.

### **If I want to apply for SSI before I leave foster care, when should I apply?**

- You should start to *prepare* to make an application about 1 year to 9 months before you age out or plan to discharge from care. Because the process is complicated and you need to fill out forms and collect records, you want to start early.
- You can *submit your application* 6 months before you leave foster care. The Social Security Administration has a special policy that allows youth in foster care to apply for SSI up to 180 days (6 months) before they are expected to leave care.<sup>25</sup>
- This policy applies if you are aging out of care, being adopted, reunifying with your biological family, or discharging for any other reason.
- For more information about this policy, check out, “SSI for Youth Transitioning Out of Foster Care,” a toolkit by Juvenile Law Center, Community Legal Services, and Homeless Advocacy Project.<sup>26</sup>

### **How do I apply for SSI?**

- The SSI application process goes like this:

- **Find someone to help:** The child welfare agency is responsible for assisting you with your SSI application while you are still in care. Ask your caseworker or attorney to help you with the process.
- **Collect your materials:** You will need all your medical records, plus lots of other documents, such as your IEP and any 504 Plans.
- **Call SSA for an interview appointment:** Once you have your documents ready (and are within 180 days of your discharge from foster care), call the SSA at 1-800-772-1213 to schedule an application interview.
- **Mail or drop off application packet:** Once you schedule your interview, you can mail or drop off your SSI application packet.
- **Attend the interview:** Attend the interview appointment scheduled by SSA.

### **Why is it important to apply for SSI before I leave care?**

- The eligibility determination process for SSI is more time-consuming and complicated than most people think. To prove your eligibility, you must present medical and other treatment records with your SSI application. It will be easier for you to work with your caseworker and lawyer to collect and submit those records while you are still in care.
- If you leave care before you get a decision on your SSI application, make sure you contact the SSA and regularly provide them with your updated contact information so that you do not miss an important notice or call about your case.

### **If I receive SSI while I am in care, where does the money go?**

- While you are still in care, the child welfare agency can use your SSI funds to pay for your care. They should also use some of the funds to meet any needs you have related to your disability and reserve some of the money to help you as you transition from care.
- Ask your attorney or caseworker these questions to ensure the SSI money is being used to help with your transition to adulthood:
  - Are there any SSI funds that could be used either for planning for my transition or for additional services?
  - Can some portion of the SSI payment be given to me so I can learn to make decisions about necessities, such as food or clothing?
  - Is there a special program or activity that will address one of my needs that is not currently being met and will help me achieve my goals?
  - Can some portion of the SSI funds be set aside as an emancipation fund for when I transition from care? Note: this amount usually cannot exceed \$2000 or you may become ineligible for SSI.

## Can I work while receiving SSI?

- Yes. Income is part of the SSI eligibility determination, but there are certain circumstances where money made from work may not count against an individual's eligibility for SSI. For example, an individual who is under age 22 and is in school or a post-secondary education or training program can have a certain amount of their income from work excluded from being counted for the purposes of SSI eligibility.
- There are also several programs that allow you to set aside money to use to implement a plan to enter or re-enter the work force or achieve self-sufficiency. This could include money to attend a vocational program or money for special tools or equipment to be used in a program or on the job. One of these programs is called a Plan for Achieving Self Support (PASS). The money set aside to spend on a training program, equipment, or other supports that is set out in the PASS would not be counted as income. To find out more about the work incentives that an individual receiving SSI may be eligible to receive, contact Disability Rights Pennsylvania at 1-800-692-7442.

## What is a "payee," and can I be my own payee if I receive SSI?

- The "payee" is the person designated to receive SSI money on behalf of a person who is receiving SSI benefits. The child welfare agency is the *least preferred* (last choice) option to be your payee.<sup>27</sup> Often though, the child welfare agency does become the payee for youth in foster care who receive SSI.
- If you are under age 18, usually a payee will be appointed for you. An appropriate payee should have a relationship with you and have knowledge of your special needs, treatment, and services.
- If you are over age 18, you are assumed to be able to manage your own funds and be your own payee. However, depending on your disability, in certain situations the SSA may ask that you have a payee appointed for you. If this happens, you can overcome this by getting documentation from a doctor or treatment professional that you can manage your own money.

## Will I receive SSI once I am out of care if I received it while in care?

- **Not necessarily.** If you receive Supplemental Security Income (SSI) as a child (under age 18), you are not guaranteed to receive it as an adult when you leave care.
- **Each child who receives SSI must go through an "Age 18 Redetermination,"** where the SSA reviews your medical and/or mental health treatment information to determine if you meet the criteria for adult eligibility for SSI payments. For more information on the "Age 18 Redetermination," see, "What You Need to Know About Your Supplemental Security Income (SSI) When You Turn 18."<sup>28</sup>

- If you are involved in an approved vocational rehabilitation program, still in high school and with an Individualized Education Plan (IEP), or involved in another similar program approved by the SSA, you may be able to continue SSI eligibility (without meeting the adult criteria) at least until you have completed the approved program. This is sometimes referred to as continued payment under Section 301.
- If you receive SSI, it is important to be prepared for the Age 18 Redetermination process. Talk to your lawyer and caseworker as well as your school’s Transition or Special Education Coordinator and any other teacher or counselor who knows about the process.

**Should keeping my SSI eligibility or applying for SSI be part of my transition/discharge plan if I have a disability?**

- Yes! Continuing or applying for SSI should be part of your discharge plan if you have a disability.
- The law requires that the child welfare agency begin planning with you for the transition to adulthood beginning at age 14. This plan should include steps that should be taken to address your disability needs, including keeping or applying for SSI.<sup>29</sup>
- The law requires that the judge approve your transition/discharge plan before you leave care at age 18 or older.<sup>30</sup> If you have a disability, the plan should include information about whether you will be getting funds or income through SSI and how SSI will help you meet your needs related to your disability.

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<sup>1</sup> See 11 PA. STAT. § 2633(2) (2011).

<sup>2</sup> See 42 U.S.C. § 12101 (2009) et seq.

<sup>3</sup> See 29 U.S.C. § 701 (2014) et seq.

<sup>4</sup> See 42 U.S.C. § 12131(2) (1990) (defining “qualified individual with a disability” to mean “an individual with a disability who, with or without reasonable modifications to rules, policies, or practices . . . meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.”); 42 U.S.C. § 12132 (1990) (“[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”); 29 U.S.C. § 794(a) (2016) (“No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits or, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . .”).

<sup>5</sup> 28 C.F.R. § 35.130(d) (2016). See also *Olmstead v. L.C.*, 527 U.S. 581 (1999).

<sup>6</sup> See 237 PA. CODE § 1608(D)(1)(I) (2018).

<sup>7</sup> *Intake Form*, DISABILITY RIGHTS PENNSYLVANIA, <https://www.disabilityrightspa.org/get-help/intake/>.

<sup>8</sup> See 42 U.S.C.A. § 675(5)(A)(1) (2018).

<sup>9</sup> See 42 U.S.C.A. § 622(b)(15)(A) (2018).

<sup>10</sup> See 55 PA. CODE § 3130.67(b)(2)(vi) (1990).

<sup>11</sup> See 42 U.S.C. § 675(5)(C), (H) (2018); 237 PA. CODE 1608(D)(1)(k) (2018).

<sup>12</sup> See 237 PA. CODE § 1608(D)(1)(I) (2018).

<sup>13</sup> See 42 C.F.R. § 441 (1984). For more information on EPSDT, see HEALTH RESOURCES & SERVICE ADMINISTRATION, EARLY PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (2018), <https://mchb.hrsa.gov/maternal-child-health-initiatives/mchb-programs/early-periodic-screening-diagnosis-and-treatment>.



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<sup>14</sup> Jennifer Pokempner, *Transition Planning for Youth with Disabilities from the Child Welfare System to Adulthood, 2<sup>nd</sup> Edition*, JUVENILE LAW CENTER (June 16, 2015), <https://jlc.org/resources/transition-planning-youth-disabilities-child-welfare-system-adulthood-2nd-edition>.

<sup>15</sup> See 237 PA. CODE § 1631(E)(2)(e) (2013) (the transition plan must include “a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child”); *id.* § 1631(E)(2)(h) (2013) (the transition plan must also include a description of any other needed support services”); *id.* § 1631(E)(4) (2013) (“The court shall not terminate its supervision of the child without approving an appropriate transition plan . . .”).

<sup>16</sup> See 20 U.S.C. § 1412(a) (2016); 34 C.F.R. §§ 300.101, 300.201, 300.17 (2006).

<sup>17</sup> 20 U.S.C. § 1401(34) (2016); 34 C.F.R. § 300.320(b) (2007); *id.* § 300.43 (2015); 22 PA. CODE § 14.131(a)(5) (2008).

<sup>18</sup> Juvenile Law Center, Disability Rights Pennsylvania, Education Law Center, *Developing An IEP Transition Plan*, JUVENILE LAW CENTER (Oct. 4, 2016), <https://jlc.org/resources/developing-iep-transition-plan>.

<sup>19</sup> See 29 U.S.C. § 794 (2016); 34 C.F.R. §§ 104.31-104.47 (2000).

<sup>20</sup> 34 C.F.R. § 300.39(a)(1) (2012).

<sup>21</sup> See 20 U.S.C.A. § 1414 (d)(1)(A)(i)(VII) (2015); 34 C.F.R. § 300.43 (2015) (“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 “[f]or 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.”).

<sup>22</sup> DISABILITY RIGHTS PENNSYLVANIA, EDUCATION LAW CENTER, JUVENILE LAW CENTER, *DEVELOPING AN IEP TRANSITION PLAN* (2016), [http://jlc.org/sites/default/files/publication\\_pdfs/Transition%20Planning%20Toolkit\\_9.15.16.pdf](http://jlc.org/sites/default/files/publication_pdfs/Transition%20Planning%20Toolkit_9.15.16.pdf).

<sup>23</sup> See 237 PA. CODE § 1608(D)(1)(I) (2018).

<sup>24</sup> SOCIAL SECURITY ADMINISTRATION, PUB. NO. 05-11005, *WHAT YOU NEED TO KNOW ABOUT YOUR SUPPLEMENTAL SECURITY INCOME (SSI) WHEN YOU TURN 18* (2019), <https://www.ssa.gov/pubs/EN-05-11005.pdf>.

<sup>25</sup> See SOCIAL SECURITY ADMINISTRATION, DI 25201.011 *MAKING DETERMINATION FOR YOUTH IN FOSTER CARE WHEN THE APPLICATION EFFECTIVE DATE IS ON OR AFTER THE ATTAINMENT OF AGE 18*, at (C) “Policy for youth transitioning out of foster care applications” (2010), <https://secure.ssa.gov/apps10/poms.nsf/lnx/0425201011>.

<sup>26</sup> COMMUNITY LEGAL SERVICES, HOMELESS ADVOCACY PROJECT, JUVENILE LAW CENTER, *SSI FOR YOUTH TRANSITIONING OUT OF FOSTER CARE* (2016), [https://jlc.org/sites/default/files/publication\\_pdfs/Final%20SSI%20Toolkit.pdf](https://jlc.org/sites/default/files/publication_pdfs/Final%20SSI%20Toolkit.pdf).

<sup>27</sup> See 20 C.F.R. § 416.621(a) (2014) (The order of preference is: (1) A legal guardian, spouse (or other relative) who has custody of the beneficiary or who demonstrates strong concern for the personal welfare of the beneficiary; (2) A friend who has custody of the beneficiary or demonstrates strong concern for the personal welfare of the beneficiary; (3) A public or nonprofit agency or institution having custody of the beneficiary; (4) A private institution operated for profit and licensed under State law, which has custody of the beneficiary; and (5) Persons other than above who are qualified to carry out the responsibilities of a payee and who are able and willing to serve as a payee for the beneficiary; e.g., members of community groups or organizations who volunteer to serve as payee for a beneficiary.).

<sup>28</sup> SOCIAL SECURITY ADMINISTRATION, PUB. NO. 05-11005, *WHAT YOU NEED TO KNOW ABOUT YOUR SUPPLEMENTAL SECURITY INCOME (SSI) WHEN YOU TURN 18* (2019), <https://www.ssa.gov/pubs/EN-05-11005.pdf>.

<sup>29</sup> See 237 PA. CODE § 1608 (D)(1)(k)(viii) (2018).

<sup>30</sup> See 237 PA. CODE § 1631(E)(2)(b), (h) (2013) (the transition plan must include a description of the child’s income and any needed support services); *id.* § 1631 (E)(4) (2013) (“The court shall not terminate its supervision of the child without approving an appropriate transition plan . . .”).

# CHAPTER 7: HEALTH INSURANCE, ACCESS TO TREATMENT AND CARE, AND CONSENT TO TREATMENT

**Introduction:** Staying healthy is crucial to making a successful transition to adulthood. If you are not able to deal with health care issues and stay healthy, it is hard to tackle all the things you have to do each day, much less work towards future goals. This chapter gives you information that will help you meet your health and behavioral health needs. This includes getting health insurance, getting particular health and behavioral health care services whether you have insurance or not, and information on when and under what circumstances you get to make your own health care decisions.

## I. Health Insurance

### What health insurance do I have while I am in care?

- Most youth in care are eligible for Medicaid; sometimes this is called Medical Assistance (or “MA”). This is comprehensive health insurance that covers all your physical health and behavioral health care needs. Behavioral health includes things like mental health, drug and alcohol treatment, and issues related to learning and thinking.
- Depending on what part of the state you live in, you will be covered by a Managed Care Organization (MCO). MCOs contract with doctors in the state who take Medicaid. There are several MCOs that cover different regions of Pennsylvania.
- The MCO provides you with a Health Plan and will help you find doctors and service providers who are covered under your plan. Your insurance card will have the name of your MCO.

### Should planning for health insurance and meeting my health care needs be part of my transition plan?

- Yes! Before leaving care, you must have a good transition/discharge plan that is developed by you and your team and it must be approved by the court before you can be discharged from care.<sup>1</sup>
- This transition/discharge plan must include information about your health insurance and how your health care needs will be met.<sup>2</sup> Before you leave care, you should be provided information about your insurance and your insurance cards.<sup>3</sup>
- For more information about transition/discharge planning see Chapter 9.

TIP: Let your judge and lawyer know if you are getting ready to transition from care and you do not know if you have health insurance. You should be given help to make sure you have insurance before you leave care, and your case should not be closed until you do.

### **What is Medicaid for Former Foster Youth and who is eligible for it?**

- The Affordable Care Act established Medicaid coverage for former foster youth until age 26.<sup>4</sup>
- If you were in foster care at age 18 or older, you are eligible for Medicaid as a former foster youth. You are eligible for this coverage until age 26, regardless of your income (how much money you make). See this video<sup>5</sup> and FAQ<sup>6</sup> for more information.
- If you are aging out and are eligible for Medicaid, ask your caseworker if she or he has taken steps with the Medicaid agency to make sure you are covered as a former foster youth.
- If you left care at age 18 or older, lost your Medicaid coverage, and are still under age 26, you should apply for Medicaid coverage as a former foster youth.
- **Apply for Medicaid as a former foster youth** by going to your local county assistance office<sup>7</sup> or apply online.<sup>8</sup>

### **What if I am not eligible for Medicaid as a former foster youth, should I still apply for Medicaid?**

- Yes! If you are not eligible for Medicaid as a former foster youth, you may still be eligible for Medicaid. Pennsylvania has expanded access to Medicaid for adults so you may be eligible. This is good health insurance.
- Apply for Medicaid by going to your local county assistance office<sup>9</sup> or apply online.<sup>10</sup>

### **What happens to my Medicaid coverage if I move to another state after leaving care?**

- If you move to another state and that becomes your permanent residence, you will need to apply for Medicaid in that state and see if you are eligible. States are only required to provide Medicaid coverage for former foster youth who were in care in that state.
- **Some states already cover former foster youth from any other state:** These include California, Delaware, Kentucky, Massachusetts, New Mexico, South Dakota, Utah, Virginia, and Wisconsin. If you move to one of these states, were in foster care at age 18 or older, and were enrolled in Medicaid at that time, you can apply for Medicaid and will be eligible as a former foster youth.
- **If you move to a state NOT listed above** or are not eligible for Medicaid as a former foster youth, you will need to apply for Medicaid in the state you are moving to and see if you are eligible as an adult.
- For more information check out the HealthCareFFY campaign.<sup>11</sup>

### **I'm moving from my home county to another county in PA for college or a training program, what should I do to keep my health insurance?**

- If you are attending college in another part of the state but will return to your current home county to receive health care, you can keep your current MCO and health care providers.
- If you are attending college in a different part of the state, will primarily live in that area, and need to receive health care locally, you may need to change your MCO so you can see local doctors. See the next question for information on how to change your MCO.

**I'm moving out of my home county to another county in PA for college. How do I change my MCO?**

- **Call or go to your local county assistance office and ask them to help you change your MCO.** Tell them you are moving and want to make sure you have an MCO that covers the area where your college or program is located.
- The county assistance office will let you know if your current MCO covers the area. If it doesn't, they will ask you to select a new MCO and new doctors or treatment providers that work with your new MCO.

**II. Getting Health and Behavioral Health Care Services**

**What services and treatment does Medicaid cover?**

- If you are under age 21, Medicaid covers all services that a doctor says are "medically necessary." This is called the Early and Periodic Screening Diagnosis and Treatment (EPSDT) requirement<sup>12</sup> and includes physical and behavioral health treatment.
- If you are 21 or older, Medicaid covers basic physical health (preventive care and specialists) and mental health treatment services (counseling, medication, etc.). It also provides prescription drugs, contraception and birth control, vision, dental, physical therapy, substance abuse treatment, and preventive services like flu shots.

**Does Medicaid cover health care and treatment related to gender transition?**

- **Check with your Managed Care Organization (MCO).** If these services and treatments are covered by your plan and a doctor prescribes them, Medicaid should cover them.<sup>13</sup>
- **If you have questions, call the Mazzoni Center at 215-563-0652 or visit their drop-in clinic in Philadelphia for youth ages 14 to 24.** If you do not live in Philadelphia, you can still call if you have questions about receiving care and finding providers in your area.
- Federal regulation requires healthcare providers to respect and treat you in a manner that reflects your gender identity, gender expression, and sexual orientation.<sup>14</sup>

**Is birth control covered by Medicaid in Pennsylvania?**

- Yes, Medicaid covers birth control.

### **Are abortions covered by Medicaid in Pennsylvania?**

- Medicaid in Pennsylvania does not cover the cost of an abortion unless the mother's life is in danger or in cases of rape or incest.
- Call the Women's Medical Fund helpline at 215-564-6622 if you need help paying for costs related to an abortion.

### **Where do I go to get information on safe sex, birth control, and family planning?**

- Ask your primary care physician or gynecologist.
- Visit [safeteens.org](http://safeteens.org)<sup>15</sup> to find clinics and health care centers in your area.
- Refer to the electronic resource<sup>16</sup> for a link to local Planned Parenthood offices or call them at 1-800-230-PLAN.
- Call the CHOICE hotline at 1-800-84-TEENS.

### **How can I find help for a substance abuse problem?**

- Medicaid will cover substance abuse treatment. Refer to the electronic resource for a link<sup>17</sup> to find resources in your county (search by county or zip code) or call 1-800-662 HELP.
- You can also call your Managed Care Organization and ask for information about treatment providers in your area that are covered by your MCO.<sup>18</sup>

### **What is behavioral health treatment?**

- Behavioral health treatment is a very broad term that includes lots of different types of treatments that help us overcome internal challenges. Some examples include treatment for stress, depression, anxiety, relationship problems, grief, addiction, ADHD, mood disorders, or other psychological concerns. It also includes treatment for substance abuse problems and issues related to learning or thinking.
- There are lots of different types of treatments, including counseling, outpatient treatment, and inpatient treatment (services while you are placed in a facility).
- Counselors can use different techniques, and counseling can also be provided in different ways, such as individual and group therapy. Outpatient treatment is provided in the community, while inpatient treatment is provided in a residential facility where you live while you get the treatment.

### **How can I get help finding behavioral health treatment?**

- Ask your caseworker to help you or call your MCO to get help finding a treatment provider.

- You can also contact the Mental Health Association of Pennsylvania to get help finding treatment or answers to your questions. Refer to the electronic resource for a link<sup>19</sup> to contact MHAPA's Behavioral Health Navigators.

**What can I do if a service or treatment I think I need is not provided or Medicaid will not pay for it?**

- **If a request for a service or treatment is denied, you can appeal the denial.** Appealing something means you are saying you disagree with the decision.
- **If you are still in care, let your lawyer, caseworker, and judge know you need a service that is not being provided so that they can help.** They may be able to help with an appeal. The court may be able to order the treatment of service.
- For help with filing an appeal, a grievance, or complaint, contact the Pennsylvania Health Law Project at 1-800-274-3258.

**If I do not have any health insurance, how can I get free or low-cost health or behavioral health care?**

You can find a list of the Community Health Centers in PA here.<sup>20</sup> You can search for centers that provide different types of care, including: physical health, behavioral health, and dental care. These centers provide free or low-cost care.

III. Consent to health and behavioral health treatment

**Who gets to consent to the health care and behavioral health treatment I receive?**

- In most cases, when you are a **under age 18** your parent or legal guardian consents, or gives permission, for most of your physical and behavioral health care treatment.
- You still get a say and should provide your input, but your parent or guardian is who decides if and how you will receive treatment.
- If you are under 18 and have graduated from high school, have been married or pregnant, then you can consent to your own health care.
- **Once you reach age 18**, you make all decisions about your health care and behavioral health treatment.

**If I am in foster care and my parents' rights *have not* been terminated, who can consent to my health care?**

- If you are under 18, in foster care, and your parents' rights *have not* been terminated, the child welfare agency can consent to routine examination and treatment *without* the consent of the parent/guardian.<sup>21</sup>

- Examples of routine treatment include: dental, vision, hearing, immunizations, and treatment for injuries and illnesses.
- When a youth is placed in a foster home, the foster care agency usually has the child's parent/guardian sign a general release authorizing the agency to obtain routine medical examination and treatment. The agency will then let the foster parent take a youth for routine examinations and immunizations.
- Non-routine treatment like surgery needs the consent of a parent or guardian or needs to be ordered by the court.<sup>22</sup>

**If I am in foster care and my parents' rights have been terminated, who can consent to my medical care?**

- If you are under 18 and your parents' rights have been terminated, the child welfare agency can consent to all routine and non-routine treatment.

**I'm under age 18, are there any health care treatments I can consent to on my own?**

- Yes. You can consent to any of the following *without* the permission of a parent/guardian, the court or the child welfare agency:
  - treatment for substance abuse
  - testing and treatment for sexually transmitted infections (STIs, including HIV, AIDS, chlamydia, gonorrhea, and syphilis)
  - birth control
  - testing and treatment for pregnancy
  - behavioral health treatment, if you are age 14 and older
  - treatment following a sexual assault.<sup>23</sup>

**Can anyone see the records of treatment that I got based on my own consent?**

- In most cases, when you consent to treatment, you control who finds out about it. Someone would need your permission to see your records. **There are a few exceptions:**
  1. **Drug/Alcohol Treatment:** If you receive treatment for drug and alcohol addiction, the facility providing treatment can—but does not have to—notify your parent or guardian. Ask about their policy so you can be prepared. If they do notify your parent or guardian, then they should let you know.
  2. **Mandatory Reporters of Child Abuse:** Healthcare providers are mandatory reporters of child abuse. If the provider suspects you are a victim of physical or sexual abuse, they are mandated to report it to authorities. *This is an exception to the confidentiality you have with a doctor or treatment provider.*
  3. **Injuries from a Crime:** A physician, intern, resident, or anyone conducting, managing, or in charge of a hospital or pharmacy who treats a patient for injuries resulting from a crime, including a sex crime, must report the patient's injuries to the police.

4. **Insurance and Medical Bills:** Records of treatment may show up on insurance and/or medical bills. Keep this in mind if you are still on your parent's insurance or a caregiver will see health care bills.

#### **Can I get birth control on my own if I am under age 18?**

- Yes.<sup>24</sup> This includes all forms of contraception, including birth control pills, and other kinds of contraception requiring medical prescriptions, including Depo-Provera, which is administered as a shot.<sup>25</sup>

#### **Can I get an abortion on my own if I am under age 18?**

- You must have consent from your parent, guardian, or legal custodian to get an abortion.<sup>26</sup>
- If your parents' rights were terminated, you must have the consent of the child welfare agency to get an abortion.<sup>27</sup>
- If you do not want to ask your parent or legal guardian for permission or are afraid to ask them, you can ask for the court's permission, petitioning the court – also called a judicial bypass.<sup>28</sup>

#### **What is a judicial bypass?**

- A judicial bypass is a process that a young person would go through to ask the court to give them permission to get an abortion if they are under age 18. In this case, you are asking the court to give permission instead of a parent or guardian.
- To find out about this process see this fact sheet<sup>29</sup> from the Women's Law Project or call them at 412-281-2892.

#### **Can I be forced to get drug treatment if I don't want it?**

- Maybe.
- Your parent and guardian can give consent for outpatient drug treatment, even against your wishes.<sup>30</sup>
- **You can only be forced into inpatient drug treatment against your wishes, if the court orders it after a petition or request is filed with the court.**<sup>31</sup> Your parent, guardian, or the child welfare agency would need to file a petition if they want the court to order you into drug or alcohol treatment. If they file a petition for treatment, you have certain rights:
  - The court will order a substance abuse assessment that must include a specific recommendation about what treatment is necessary and for how long.
  - After the assessment, the court will hold a hearing to determine whether the law's standards are met.



- You have the right to have your attorney representing you at this hearing.
- To order you into in-patient substance abuse treatment against your wishes:
  - the court must find that you have a substance abuse problem and
  - would benefit from involuntary treatment services.
  - You can only be ordered into involuntary inpatient drug treatment for up to 45 days, after that, the court must hold another hearing.

**I am under 18, who can provide consent for my behavioral health treatment?**

- **Until you turn 14, your parent/guardian has the final say and gives consent for your treatment.** Your parent/guardian should help you make decisions about behavioral health treatment, no matter your age.
- **If you are 14 or older, you get to decide whether you will get behavioral health treatment.** However, there are some exceptions that allow your parent or the court to decide that you need treatment.<sup>32</sup>

**Can I get outpatient mental health treatment without a parent/guardian’s consent?**

Yes. If you are 14 or older, you can decide if you want to get outpatient mental health treatment.<sup>33</sup>

**I’m 14 or older. Can I be forced to get outpatient treatment even if I don’t want it?**

- Yes. Your parent or legal guardian can provide consent for outpatient treatment for you, and your agreement to treatment is not required.<sup>34</sup>
- There is no process for you to object to getting outpatient treatment if a parent or guardian consents to it.

**I’m 14 or older. Can I be forced to do inpatient treatment even if I don’t want it?**

- Yes, but only if your parent or legal guardian consents and a physician recommends this type of treatment. If this happens and you disagree, you can file a petition to object and a hearing will be held within 72 hours. You will be provided an attorney to represent you.<sup>35</sup>
- In order for the court to order you to continue inpatient mental health treatment against your wishes, it must be convinced that:
  - (1) you have a mental health issue,
  - (2) the issue is treatable,
  - (3) the facility where you are can treat the issue,
  - (4) and that less restrictive treatment options, such as outpatient treatment, would not work.<sup>36</sup>

- The court can initially order you to stay in inpatient mental health treatment for up to 20 days.<sup>37</sup>
- The court can hold another hearing after the initial 20 days and order up to 60 more days of inpatient treatment. After those 60 days, the court can continue to hold hearings and order continued treatment for up to 60 days at a time.<sup>38</sup>
- You must be discharged from the inpatient facility if the court no longer finds you need treatment, your doctor thinks you no longer need treatment, or if your parent or guardian changes their mind.<sup>39</sup>

### **What are psychotropic medications and who decides if I take them?**

- Psychotropic medications are designed to affect the mind, emotions, or behavior. They can be prescribed for things like post-traumatic stress disorder, eating disorders, anxiety, depression, attention deficit disorder, oppositional defiance disorder, and other types of conditions that affect the mind, emotions, or behavior.
- **If you are under 14, your parent/guardian gets to decide and give consent**, but they should make these decisions with you and make sure you understand why you are taking medication.
- **At age 14, you get to decide what psychotropic medications you take.**
- **If you are 14 or older and do not want to take a prescribed psychotropic medication, you generally don't have to.** The only exception is if the court orders you to take psychotropic medication. If this is the case, make sure you talk to your lawyer so that the judge hears your perspective on medications. (See Chapter 17: Getting Your Voice Heard)
- **If you do take any medication, including psychotropic medication, make sure to ask what it does, how it will help you, and if it has any side effects.**

### **What are some questions I should ask if I am prescribed with psychotropic medication?**

1. Why am I being prescribed this medication?
2. What is this medication supposed to do?
3. How will this medication make me feel?
4. How long will I be taking this medication?
5. What are the side effects?
6. How and when do I take this medication?
7. Are there other treatments besides medication, like therapy, nutrition changes, athletic or artistic activities that could help me instead of medication?

### **What is a health care proxy and why do I need to know about it?**

- A health care proxy or power of attorney to make medical decisions is someone who is responsible for making physical and behavioral health care decisions for you if there comes a time when you are not able to make decisions on your own because of illness.

- When you are young, it is hard to think that there would be a time that you would need this, but identifying someone who can make health care decisions for you if you cannot is part of planning for adulthood and is a requirement of the transition/discharge plan.<sup>40</sup>
- Ask your caseworker and lawyer to talk with you about health care decision making for your future, to explain how a health care proxy works, and who you may want to ask to take on that role. It is a complicated issue so do not be afraid to ask.

### **At what age will I be fully in charge of my health care and treatment decisions?**

- At age 18 you are a legal adult who can consent to treatment and care without the permission of a parent, guardian, or other adult.
- Remaining in foster care past age 18 in no way interferes with your right to consent to your own treatment.
- Regardless of your age, you can always ask questions and have input in the care or treatment you are receiving. Learning about your health care needs and how to manage them should be part of your transition to adulthood services.

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<sup>1</sup> Juv. Ct. Pa. Stat. and Cons. Stat. Ann. § 1631(E) (West 2013) (the court cannot close the case unless it approves a transition plan that meets the requirements of the law).

<sup>2</sup> 42 U.S.C.A. 675(5)(H) (West 2018) (the transition plan must include “specific options on... health insurance... and continuing support services); Juv. Ct. Pa. Stat. and Cons. Stat. Ann. § 1631(E) (West 2013) (the court shall not terminate jurisdiction of the case of youth who is age 18 or older unless it approves the transition plan, which must include “a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child.”).

<sup>3</sup> 42 U.S.C.A. 675(5)(I) (West 2018) (a child cannot be discharged from care at age 18 or older without being provided their vital documents, including health insurance information and a copy of the child’s medical records).

<sup>4</sup> 42 U.S.C.A. § 1396a(10)(A)(i)(IX).

<sup>5</sup> *Free Health Insurance for Former Foster Youth!*, JUVENILE LAW CTR., <https://jlc.org/resources/free-health-insurance-former-foster-youth> (last visited June 4, 2020).

<sup>6</sup> *Free Health Insurance for Former Foster Youth!*, *supra* note v.

<sup>7</sup> *County Assistance Office Contact Information*, PA. DEP’T OF HUMAN SERVS., <https://www.dhs.pa.gov/Services/Assistance/Pages/CAO-Contact.aspx> (last visited June 4, 2020).

<sup>8</sup> *COMPASS*, PA. DEP’T OF HUMAN SERVS. <https://www.compass.state.pa.us/compass.web/Public/CMPHome> (last visited June 4, 2020).

<sup>9</sup> *County Assistance Office Contact Information*, *supra* note vii.

<sup>10</sup> *COMPASS*, *supra* note vii.

<sup>11</sup> *Did you know former foster youth can keep health care coverage until age 26?*, HEALTH CARE FOR FORMER FOSTER YOUTH, <https://www.fosterclub.com/healthcareffy> (last visited June 4, 2020)

<sup>12</sup> 42 U.S.C.A. 1396d(r) (West 2019).

<sup>13</sup> *Federal Final Rule, “Non-Discrimination in Health Programs and Activities” and Implication for Coverage of Services Related to Gender Transition*, Medical Assistance Bulletin, 99-16-11 (July 18, 2016).

<sup>14</sup> 45 C.F.R. 92.207 (2016).

<sup>15</sup> *What if the condom breaks?*, SAFETEENS.ORG, <https://safeteens.org/> (last visited June 4, 2020).

<sup>16</sup> *Health Centers in Pennsylvania*, PLANNED PARENTHOOD, <https://www.plannedparenthood.org/health-center/pa> (last visited June 4, 2020).

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- <sup>17</sup> *Locate County Resources*, PA. DEP'T OF DRUG AND ALCOHOL PROGRAMS, <https://apps.ddap.pa.gov/gethelpnow/CountyServices.aspx> (last visited June 4, 2020)
- <sup>18</sup> *Statewide Managed Care Map*, PA. DEP'T OF HUMAN SERVS, <https://www.dhs.pa.gov/providers/Providers/Pages/Statewide-Managed-Care-Map.aspx> (last visited June 4, 2020)
- <sup>19</sup> *Behavioral Health Navigators*, MENTAL HEALTH ASS'N IN PA., <https://www.mhapa.org/programs/behavioral-health-navigators/> (last visited June 4, 2020).
- <sup>20</sup> *Find a Health Center*, PA. ASS'N OF CMTY. HEALTH CTRS., <https://www.pachc.org/PA-Health-Centers/Find-a-Health-Center> (last visited June 4, 2020).
- <sup>21</sup> 55 Pa. Code § 3130.91(2)(i) (2019).
- <sup>22</sup> 55 Pa. Code § 3130.91(2)(ii) & (iii) (2019).
- <sup>23</sup> 55 Pa. Code § 3130.91(4) & (5) (2019).
- <sup>24</sup> *Parents United for a Better Sch. V. Sch. Dist. Of Philadelphia*, 978 F. Supp. 197, 208 (E.D. Pa. 1997), *aff'd on other grounds*, 148 F. 3d 260 (3d Cir. 1998).
- <sup>25</sup> ACLU of Pennsylvania, “Do You Have to Tell My Mom?” *Minors, Health Care and the Law*, <https://www.aclupa.org/en/do-you-have-tell-my-mom-minors-health-care-law>.
- <sup>26</sup> 18 Pa. Stat. and Cons. Stat. Ann. § 3206 (West 1992).
- <sup>27</sup> 23 Pa.C.S.A. § 2521 (c)(authority of an agency or person receiving custody following a termination of parental right decree).
- <sup>28</sup> *See Id.*
- <sup>29</sup> Women’s Law Project, *A Guide for Young People Seeking Abortion Without Parental Involvement in Pennsylvania*, <https://www.womenslawproject.org/wp-content/uploads/2018/12/Judicial-Bypass-Fact-sheet-2018.pdf>
- <sup>30</sup> 71 Pa. Stat. and Cons. Stat. Ann. § 1690.112 (West 2018).
- <sup>31</sup> *Id.* § 1690.112a(a); *Id.* § 1690.112a(b)(2); *Id.* § 1690.112a(c).
- <sup>32</sup> 55 Pa. Code § 3680.52(6) (1987). 50 Pa. Stat. and Cons. Stat. Ann. § 7201 (West 1978).
- <sup>33</sup> 35 Pa. Stat. and Cons. Stat. Ann. § 10101.1(a)(1) (West 2005).
- <sup>34</sup> *Id.* § 10101.1(a)(2) & (a)(3).
- <sup>35</sup> *Id.* § 10101.1(b)(8).
- <sup>36</sup> *Id.* § 10101.1(b)(8)(i-iv).
- <sup>37</sup> *Id.* § 10101.1(b)(9).
- <sup>38</sup> *Id.* § 10101.1(b)(9)(ii).
- <sup>39</sup> *Id.* § 10101.1(b).
- <sup>40</sup> 42 U.S.C.A. 675(5)(H).

# **CHAPTER 8: HEALTH CARE, CHILD WELFARE AND ADOPTION RECORDS: CONFIDENTIALITY AND ACCESSIBILITY**

Introduction: Your records contain a lot of important information about you and the treatment and services you receive. These records can help you understand your past and get what you need for the future. This chapter gives you information about your child welfare, health, behavioral health, and adoption records.

## **Who can release or control access to my health records?**

- At age 18, you have control of your own health records, which include physical and behavioral health. Before then, a parent or guardian usually controls access to those records.
- There are some important exceptions to this rule. Remember that there are some treatments and care you can consent to on your own without a parent, guardian, or the court. In those cases, you control the release of records related to those services.
- Even if your medical records aren't released, the services you receive can show up on your medical insurance or medical bills.

## **Child Welfare Records: Confidentiality and Accessibility**

### **Who gets to see my child welfare case record and what's in it?**

- Your family case record contains information about you, your family, and your case. The file is kept at the county child welfare agency while the case is open and is retained for five years after the case is closed.<sup>1</sup>
- The information in your file is confidential and can only be released to specific people and agencies, including your lawyer, your parents, your parents' lawyer(s), and the judge. County executives may also request to see your file.<sup>2</sup> The court can also order that information in the case record be released to particular people. If that is done, it is usually to share information that is needed to provide for your care.

### **How can I request to see my child welfare case record?**

- If you are 14 or older, you can request to see your family case record.<sup>3</sup>
- You should make the request to the county child welfare agency director and the lawyer for the children and youth agency (the solicitor) in the county where you were in foster care.

- The child welfare agency may decide to not share all information in the family case file if they think the information would be harmful to you.<sup>4</sup> If this happens, they should explain to you why they think seeing parts of the record would be harmful to you.
- Ask your lawyer or caseworker to help you make this request.
- Seeing information in a family case record can be emotional and difficult. Please ask for support if you decide to review your family case record so you have help in processing the information and understanding it.

### **Can my caseworker release information in my records without my permission?**

- In most situations, only a few people and agencies can have access to your family case record. This includes your lawyer, your parents, your parents' lawyer(s), and the judge. County executives may also request to see your file.<sup>5</sup>
- Your caseworker can release, even without your or your parents' consent, some general information to:
  - **Health care providers:** Information from your records may be released to a healthcare provider, but only when that information is needed for your treatment.
  - **Foster parents:** A law called the Resource Family Care Act allows your foster parents to have access to some information about your medical, behavioral, familial, and educational history. The information shared with your foster parents is meant to help them provide good care for you.<sup>6</sup>
- **However, records of specific types of medical treatment in your file can only be released with your consent.**

### **What information is in my adoption record?**

- The date of your adoption determines how much information is contained in your adoption record.<sup>7</sup>
- **If you were adopted before April 25, 2011, your information may be in a registry called the Adoption Medical History Registry.** Birth parents and adoptees could voluntarily submit information about medical or social history, in addition to any other identifying information. However, there may not be a lot of information on adoptions that were finalized before April 25, 2011.<sup>8</sup>
- **If you are adopted after April 25, 2011, you may have access to more information. That is when a law, Act 101 of 2010, went into effect.** Act 101 requires that more information is collected and kept for adoptions that are finalized in Pennsylvania. The law created a new registry, the Pennsylvania Adoption Information Registry (PAIR).<sup>9</sup> Child welfare agencies and the court use PAIR to register and update information about children adopted in or registered in Pennsylvania. The adoptee (you), adoptive parents, birth parents, adoption agencies, and the court system all provide the information collected in PAIR. This may include:
  - Information about your biological family's medical history

- Information about your adoption and your adoptive parents
- Your child welfare history, including different placements and history of abuse/neglect
- Your educational history
- Your original birth records.<sup>10</sup>
- Some records will include identifying information, such as name and contact information, while other records will not include identifying information.<sup>11</sup>
- You can request information from the registry by contacting PAIR at 1-800-227-0225.

### **I was adopted in Pennsylvania. When and how can I access information in my adoption records?**

- You may be able to access some information from your adoption record once you turn 18.<sup>12</sup>
- If you are eligible to request information from PAIR, fill out the Act 101 CY983 Request for Adoption Information Form.<sup>13</sup> Print out the form, complete it, and mail it to: Pennsylvania Adoption Information Registry, P.O. Box 4379, Harrisburg, PA 17111-0379. Keep a copy for your records.
- If the information you request is in PAIR, they will send it to you within 30 days.<sup>14</sup>
- If the information is NOT in PAIR, you will get a letter within 30 days telling you that the information is not available.<sup>15</sup>
- If you are told you need to pay a fee and cannot, ask that the fee be waived (not charged for you). The law allows the court or agency to charge reasonable fees to provide information from adoption records.<sup>16</sup> If it would be difficult for you to pay these fees, make sure you let the agency know about your situation. They may be able to help.

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<sup>1</sup> 55 Pa. Code § 3130.43(d).

<sup>2</sup> 55 Pa. Code § 3130.44(d).

<sup>3</sup> 55 Pa. Code § 3130.44(d)(5).

<sup>4</sup> 55 Pa. Code § 3130.44(d)(5).

<sup>5</sup> 55 Pa. Code § 3130.44(d).

<sup>6</sup> 11 Pa.C.S.A. § 2604.

<sup>7</sup> See 23 Pa. C.S.A. § 2924. The State's current registry of information on adoptions began in 2011 whereas the State used a different registry system previously. See also Implementation of Act 101, Office of Children, Youth and Families Bulletin, 3350-11-01, 1-2 & 22 (April 22, 2011),

[https://www.dhs.pa.gov/docs/Publications/Documents/FORMS\\_AND\\_PUBS\\_OCYF/OCYF\\_3350-11-01.pdf](https://www.dhs.pa.gov/docs/Publications/Documents/FORMS_AND_PUBS_OCYF/OCYF_3350-11-01.pdf).

<sup>8</sup> Implementation of Act 101, Office of Children, Youth and Families Bulletin, 3350-11-01 (April 22, 2011),

[https://www.dhs.pa.gov/docs/Publications/Documents/FORMS\\_AND\\_PUBS\\_OCYF/OCYF\\_3350-11-01.pdf](https://www.dhs.pa.gov/docs/Publications/Documents/FORMS_AND_PUBS_OCYF/OCYF_3350-11-01.pdf).

<sup>9</sup> Implementation of Act 101, Office of Children, Youth and Families Bulletin, 3350-11-01, 16-17 (April 22, 2011),

[https://www.dhs.pa.gov/docs/Publications/Documents/FORMS\\_AND\\_PUBS\\_OCYF/OCYF\\_3350-11-01.pdf](https://www.dhs.pa.gov/docs/Publications/Documents/FORMS_AND_PUBS_OCYF/OCYF_3350-11-01.pdf); see also

RESOURCES FOR ADOPTEES AND THEIR BIRTH FAMILIES, PENNSYLVANIA ADOPTION INFORMATION REGISTRY,

<http://www.adoptpakids.org/Documents/PAIRBrochure.pdf>.

<sup>10</sup> Implementation of Act 101, Office of Children, Youth and Families Bulletin, 3350-11-01, 16-17 (April 22, 2011),

[https://www.dhs.pa.gov/docs/Publications/Documents/FORMS\\_AND\\_PUBS\\_OCYF/OCYF\\_3350-11-01.pdf](https://www.dhs.pa.gov/docs/Publications/Documents/FORMS_AND_PUBS_OCYF/OCYF_3350-11-01.pdf).

<sup>11</sup> Implementation of Act 101, Office of Children, Youth and Families Bulletin, 3350-11-01, 19 (April 22, 2011),

[https://www.dhs.pa.gov/docs/Publications/Documents/FORMS\\_AND\\_PUBS\\_OCYF/OCYF\\_3350-11-01.pdf](https://www.dhs.pa.gov/docs/Publications/Documents/FORMS_AND_PUBS_OCYF/OCYF_3350-11-01.pdf) (" . . .

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adoptees, adoptive parents and birth parents may authorize the release of identifying information and may amend or withdraw their authorization to release identifying information at any time by updating their information with the PAIR.”).

<sup>12</sup> Implementation of Act 101, Office of Children, Youth and Families Bulletin, 3350-11-01, 20 (April 22, 2011), <https://www.dhs.pa.gov/docs/Publications/Documents/FORMS AND PUBS OCYF/OCYF 3350-11-01.pdf>.

<sup>13</sup> PENNSYLVANIA ADOPTION INFORMATION REGISTRY REQUEST FOR ADOPTION INFORMATION, PENNSYLVANIA DEPARTMENT OF HUMAN SERVICES, [http://www.adoptpakids.org/Documents/Act101\\_CY983\\_RequestForAdoptionInfo.pdf](http://www.adoptpakids.org/Documents/Act101_CY983_RequestForAdoptionInfo.pdf).

<sup>14</sup> Implementation of Act 101, Office of Children, Youth and Families Bulletin, 3350-11-01, 20 (April 22, 2011), <https://www.dhs.pa.gov/docs/Publications/Documents/FORMS AND PUBS OCYF/OCYF 3350-11-01.pdf>.

<sup>15</sup> Implementation of Act 101, Office of Children, Youth and Families Bulletin, 3350-11-01, 20 (April 22, 2011), <https://www.dhs.pa.gov/docs/Publications/Documents/FORMS AND PUBS OCYF/OCYF 3350-11-01.pdf>.

<sup>16</sup> Implementation of Act 101, Office of Children, Youth and Families Bulletin, 3350-11-01, 20 (April 22, 2011), <https://www.dhs.pa.gov/docs/Publications/Documents/FORMS AND PUBS OCYF/OCYF 3350-11-01.pdf>.



# CHAPTER 9: PLANNING FOR THE FUTURE TRANSITION TO ADULTHOOD AND DISCHARGE PLANNING

**Introduction:** Growing up and becoming an adult is not easy, but it can be very exciting and you can get help and support every step of the way. Most young people transition to adulthood and are able to live on their own and do things like have a career and support themselves in their mid to late 20s. All youth need and deserve help as they build up the skills and experience to be able to make it on their own. There are many laws that help ensure that you will have support as you plan for your future and achieve your goals. This chapter gives you information on your rights and services that will help as you prepare for adulthood and when you are leaving the system at age 18 or older.

## I. Transition to Adulthood Planning Begins at 14

### **What are transition to adulthood services?**

- Transition to adulthood services are services and supports to help you achieve your dreams and learn the skills you need to handle the responsibilities of being an adult.

### **At what age should transition to adulthood planning and services start?**

- Planning and services to support your transition to adulthood should begin at least at age 14 for all youth who are in foster care.<sup>1</sup>

### **Am I eligible for transition to adulthood services no matter what my permanency plan is?**

- Yes. All young people deserve support in transitioning to adulthood no matter what their permanency plan is.

### **If I am in the juvenile justice system, am I eligible for transition to adulthood services?**

- If you are involved in the child welfare system and juvenile justice system—sometimes called shared case management—you are eligible for transition to adulthood services.
- Counties have the option to provide transition to adulthood services to youth in the juvenile justice system.<sup>2</sup> Ask your caseworker or probation if your county does and ask for transition to adulthood services!

### **Can I get transition to adulthood services no matter where I live and what type of placement I am in?**

- **All youth** in care age 14 or older are entitled to transition to adulthood services, regardless of where you are placed.
- **You are eligible** whether you live with your foster parents, family members, in a group home, a residential treatment center, or supervised independent living placement.
- You are also eligible for transition service after you leave foster care and placement. See the aftercare section for more information on this.

### **Should I be getting transition services if I have a disability or other special needs?**

- All youth age 14 and older are entitled to transition to adulthood services! Youth with disabilities deserve the same supports.<sup>3</sup>
- Both Federal and State law require that you receive services that are developmentally and age appropriate and that you are provided accommodations or assistance to make sure that even if you have a disability you can still receive the services you need.<sup>4</sup>
- JLC developed a guide for youth with disabilities to help guide their transition to adulthood.<sup>5</sup>
- You may also be able to get additional services through school or the Office of Vocational Rehabilitation. Talk with your casework to see what is right for you! (See Chapter 6: Youth With Disabilities)

### **Why are you calling these services transition to adulthood services? Aren't they independent living services?**

- A federal law changed the name of independent living services to transition to a successful adulthood services.<sup>6</sup> State law has also changed.<sup>7</sup>
- This change in wording reflected the reality that young people—in and out of foster care—do not become independent as they enter adulthood. Instead, most adults develop skills so they can support themselves and thrive, but all people depend on others and are interdependent.
- As you get older you should learn more skills, have the opportunity to become more independent and make your own decisions, but you should also have a support of family, peers, and others whether you are 17, 21, or even 45! As you get older you also become part of more people's network and help them grow as well.

### **Are "Chafee" services different than transition to adulthood services?**

- The John H. Chafee Foster Care Program for Successful Transition to Adulthood, referred to as "Chafee", is the name of section of the federal law that provides funding to all states, including Pennsylvania.<sup>8</sup> These funds are used for transition to adulthood services for eligible youth but are not the only funding source for transition services.<sup>9</sup>

- You have a right to transition planning and services beginning at 14 no matter what funding is available.

### **What transition to adulthood services should I be receiving?**

- The services you receive should be based on your own goals and needs and should be listed in your case plan.
- **Here are some examples of some common transition services:**
  - Help obtaining high school diploma or GED
  - Help planning for your education
  - Help preparing for post-secondary programs, like college or trade school, including school visits, preparing for the ACT or SATs, filling out applications for schools and financial aid
  - Career planning and support
  - Job training and help with searching for and getting a job
  - Instruction on how to take care of a home or apartment
  - Budgeting and money management
  - Help finding housing and understanding the obligations of renting an apartment
  - Mentoring
  - Help building and maintaining meaningful, supportive connections with caring adults
  - Help understanding public transportation and how to access community resources
  - Understanding family planning options and how to have healthy relationships

### **How will my transition goals and needs be determined?**

- Before you begin receiving transition to adulthood services, a formal and/or an informal assessment will be done.<sup>10</sup> The results of the assessment should help you figure out what goals to set and what services you need to achieve the goals.
- You should also have the opportunity to tell your caseworker and service provider what is most important to you.
- You should be involved in identifying your goals and the services you need! We all have strengths and weaknesses, and you know yourself better than anyone else. For example, if budgeting is challenging for you (it is for many of us!) you may want to ask for more help in this area and opportunities for practicing saving and using money.

### **What is a transition to adulthood plan and what should be in it?**

- Your transition to adulthood plan should identify your transition goals and the specific services and experiences you need to achieve those goals.

- All the transition to adulthood services you are getting now or will receive should be part of your transition to adulthood plan. This should be part of your case plan,<sup>11</sup> which may be called the child permanency plan or family service plan.<sup>12</sup> Sometimes it is called an independent living plan or is a section on your case plan.
- Here are some examples of areas and goals to consider setting in your transition plan:
  - **Life Skills and Daily Living:** learning how to clean, cook, do laundry, household management, getting around the community, how to use public transportation, etc.
  - **Self-Care:** personal hygiene, addressing your health needs, instruction on family planning, sexual health, and birth control.
  - **Budgeting and Money Management:** opening and managing a bank account, understanding credit, how to create and maintain a budget, saving money, and applying for financial aid for post-secondary education and trainings.
  - **Finding, Paying for, and Maintaining Housing:** searching for housing, filling out rental applications, finding a roommate, finding and applying for housing programs that help with rent.
  - **Employment and Career:** searching and applying for jobs or vocational training, how to approach building a career, and how to find mentorship opportunities, job coaching and support.
  - **Educational Access and Success:** completing high school, going to college, or training and completing college and training.
  - **Building Relationships and Supportive Connections:** establishing relationships with mentors, locating and maintaining connections with family members other supportive adults, and finding and participating in social activities and community groups.

### **Will my transition to adulthood plan change over time?**

- Yes. As you grow and learn, both your strengths and challenges, as well as your goals and dreams, may change.
- Just like your case plan, your transition to adulthood plan should be updated at least every 6 months to reflect the fact that you will be adding and changing goals as you get older, learn more skills and learn more about your strengths and needs.
- Let your caseworker(s) and lawyer know if there are any additional or new goals you want to set and services that you need to achieve a goal.
- You can also let the judge know what services you are requesting when you go to court.

Make sure you have a goal for housing in your transition plan and ask about the resources and programs that exist in your community to help meet this goal.

Many young adults live with family members to help meet housing cost and needs. Don't forget to think about including your family in your transition planning because they may be able to help you figure out good housing options (as well as other things).

### **What is a stipend?**

- Money for a specific purpose—or stipends—is one way programs can support you during your transition to adulthood. Getting a stipend can be part of your transition to adulthood plan and services.
- Stipends are money earned by or awarded to you for specific purposes to meet your individualized needs and goals, for example:
  - Buying work or school uniforms
  - Paying costs associated with High school graduation
  - Covering moving expenses
- Check out your county's stipend policy and ask who is eligible. Each county has its own policies on stipends.<sup>13</sup>

### **What is a credit history?**

- A credit history is your financial “report card,” or a record of a person's debts and ability to pay their bills on-time.
- Credit histories are used to tell how well you manage your money and how financially responsible you have been. Landlords may look at this before they rent you an apartment. A bank or credit card company may look at this before they give you a loan or a credit card.
- It's important to know your credit history, since it can affect many areas of your life.

### **Do I have a credit history?**

- You shouldn't have a credit history until you turn age 18 and are able to enter into contracts, like for utilities (such as heating or electricity bills), loans, or credit cards under your name.

### **What is identify theft and are youth in foster care at risk for identity theft?**

- Identify theft is when people will use or steal someone's identity and open up accounts and buy things that they do not pay for. This results in debts being under the name of the person whose identify was taken.
- Youth in foster care are particularly at risk for identity theft because of how many people see or know their personal identity information.

### **Should I be getting my credit report each year?**

- Yes. The law requires that the child welfare agency checks your credit history every year after you turn age 14 until you leave foster care. They can help you show you how to do this yourself after age 18.<sup>14</sup>

### **What do I do if there are problems with my credit history?**

- The law requires that the child welfare agency help you resolve any problems that come up on your credit report.<sup>15</sup>
- Talk to your lawyer and caseworker if you find out that your identity has been stolen or you have accounts and debt that do not belong to you. The child welfare agency should help you resolve these issues.
- A good credit history is very important for things like getting a job, a car loan or student loan, an apartment and more.

### **Who provides transition to adulthood services?**

- Your county agency can either provide the services directly or hire another agency or program to provide the services.
- Each county has a coordinator who can give you more information about how transition to adulthood services are provided in your county.<sup>16</sup>
- You can find contact information for your IL Coordinator.<sup>17</sup>

### **How will I receive transition to adulthood services?**

- Transition to adulthood services can be provided in many ways, including one-on-one instruction and/or in group settings.
- In addition, you should also get the opportunity to learn and practice your skills at home. For example, skills like cooking, doing the laundry, and budgeting are the types of skills that you learn best by doing.

### **How should the judge in my case be involved in transition to adulthood planning?**

- The judge plays an important role in overseeing your case; their job is to make sure you get the services you need and deserve. This includes making sure you are receiving transition to adulthood services and that you are making progress in meeting your goals.
- At each permanency hearing that you have when you are age 14 or older, the judge should be asking about transition goals and services. Specifically, the judge should make

a finding, which is a statement on the record and in the court documents, about all of the following:

- the transition to adulthood services you are being provided;<sup>18</sup>
- the areas where you need help according to your assessment;
- the services you will receive before your next hearing;
- whether you are able to practice your skills at home;
- how you are developing and maintaining connections with supportive adults;
- if you are making the progress you need to graduate from high school or are otherwise enrolled in a program that will allow you to be successful, like a vocational program;
- your employment and career goals and what services are being provided to you so that you can meet them;
- whether you have physical health or behavioral health needs that require services after you leave care; and
- the plan to make sure you have stable housing or living arrangements when you leave care.

✓ **Court is a good time to let people know if there is something you need more help with or you want to add a transition service or goal.** For example, if you need more help pulling your grades up so you can get into college or you need more coaching on how to get and keep a job—ask! The judge can make sure you are provided with services you need to help you achieve your goals.

✓ **YOU** have an important role to play in making sure that everyone, including the judge, understands your needs and goals. This will help you get the help and support you need to succeed as you get ready to exit care.

✓ Your 6-month hearing is a good time to express these new interests and opportunities to the judge who can order a change in services or additional services to support your goals.

## II. Transition/Discharge Planning

### How is a transition/discharge plan different from a transition to adulthood plan?

- A “transition plan” is a discharge or exit plan from foster care and outlines a plan for life after foster care. The law requires that every youth have a transition/discharge plan before they leave care at age 18 or older.
- A transition to adulthood plan details the services and supports you need to be prepared for your eventual exit from foster care. It should begin at age 14.

- You need a good transition to adulthood plan to have a great transition/discharge plan. The transition/discharge plan builds on the transition to adulthood plan.

### **Is it a transition plan or a discharge plan? Why are there so many terms?**

- The law does refer to the plan you have before you discharge from care as a transition plan. Because transition planning begins at age 14, we use the term transition/discharge plan to let you know we mean the plan that must be developed when you leave care at age 18 or older.
- Your caseworker, lawyer or judge may refer to your discharge plan as your transition plan. Always clarify to make sure you know which plan is being discussed.

### **When should my transition/discharge plan be developed?**

- Pennsylvania requires that the transition/discharge plan be developed at least 6 months before you plan to leave care when you are age 18 or older.<sup>19</sup>

### **What should be in a transition/discharge plan?**

- The plan should be very specific and provide details on how you will meet your daily needs as well as some of your long-term goals.
- Federal and state law require that specific information on the following areas must be included in the transition/discharge plan:
  - Specific plans for housing.<sup>20</sup>
  - Your source of income.<sup>21</sup>
    - Your current job or your future employment prospects and career goals.<sup>22</sup>
    - Work force supports and employment services available.<sup>23</sup>
  - A copy of your health and education records.<sup>24</sup>
  - Details about health insurance.<sup>25</sup>
    - Any ongoing behavioral or health needs you may have as an adult and how they will be met.<sup>26</sup>
    - Information about health care decision making, including information about giving another individual the ability to make health care treatment decisions on your behalf, if it becomes necessary, and your option to sign a document that will give this person this authority.<sup>27</sup>
  - Details on programs geared towards finding you mentors or supportive connections with adults.<sup>28</sup>
  - Proof that you have all your vital documents (identification documents, necessary paperwork, and records)<sup>29</sup>:
    - birth certificate



- Social Security card
  - health insurance information
  - medical records
  - state photo ID or U.S. Passport
  - copies of your education records
  - your most recent credit report<sup>30</sup>
- A letter with the dates when you were under the jurisdiction of the dependency court and in foster care.<sup>31</sup>
- Any other support services you may need.<sup>32</sup>
- Proof that you have been notified that you can reenter care until you are 21.<sup>33</sup>
- State guidance also requires that youth be provided with:
  - Child Profile Documents
  - Life Book
  - Proof of your citizenship or legal residency status or you were not born in the United States
  - Family/tribal contact information
  - Voter registration<sup>34</sup>

**If I have a disability or special need, should anything additional be in my transition/discharge plan?**

- Yes. Youth with disabilities need to make sure their transition/discharge plan includes all services needed to meet their health and support needs. This may include things like applying for Supplemental Security Income (SSI), applying to housing programs for individuals with disabilities, and ensuring that you are connected and enrolled in adult serving systems.
- For more specific information for youth with disabilities, see Chapter 6: Youth With Disabilities.<sup>35</sup>

**How should I be involved in creating my transition/discharge plan?**

- You are the most important person involved in your transition/discharge plan. It's important to attend any meetings where your plan is being discussed.
- You should ask for additional meetings to discuss your plan if there are issues that have not been resolved or you want to talk about additional details of the plan. (See Chapter 17: Getting Your Voice Heard)
- You have a right to invite people who are involved in your life and are supports to you to your case planning and transition/discharge meetings.<sup>36</sup> This can help in making sure you feel supported and have people in the room who can help you ask question and raise your concerns.

### **What is the court's role in my transition/discharge plan?**

- The juvenile court judge is the one who approves your discharge plan.
- The judge must be satisfied that your plan meets all the requirements listed above before you can be discharged from care.<sup>37</sup>
- The court should make sure that you were involved in and understand your discharge plan and that the child welfare agency is working with you to ensure that all the details of your plan are carried out.<sup>38</sup>

### **What happens if the discharge plan presented to the court is not acceptable?**

- If your discharge plan isn't approved by the court, the court cannot close your case.<sup>39</sup>
- The judge can require additional planning meetings be held or order additional services to make sure you have a strong discharge plan.<sup>40</sup>
- For example, if there is no plan for housing or the plan is too vague, the case should not be closed. The court should order that action be taken in the form of holding meetings or providing certain assistance so that the problems with the plan can be resolved. The case should be brought back to court so that an acceptable plan can be presented to the court.

**You should never be discharged to homelessness or with a discharge plan that does not meet your needs!!**

### **Are there any tips on how I can advocate for myself when developing a discharge plan?**

- Make sure you are involved in case planning meetings and court so you can ask questions and ask for help if you need it.
- Make sure you understand what is in your plan and ask questions if you do not understand or are worried that the plan is not realistic.
- Ask that a few plans be developed for each goal so you have back up plans. This is especially important for your housing plan.
- Youth Fostering Change, a youth advocacy program with Juvenile Law Center, created a Discharge Hearing form to use prior to the discharge planning hearing. The form can be accessed online.<sup>41</sup> It is a form developed by youth in care, for youth in care to make sure you have a meaningful and realistic plan for housing, education, employment, and health care. We recommend that you fill out the Discharge Hearing form as soon as possible. (See Chapter 17: Getting Your Voice Heard for more information)
- Involve your support network and mentors in your planning. Planning for transition/discharge is really scary and can be overwhelming. People want to help and support you. Please ask them to come to meetings and court!

## I exited care but need help. Where can I go to find resources?

- Your discharge plan should include a backup plan and information about resources in the community.
- If you need more help, you can contact your caseworker, or IL worker and ask for help with finding resources. (See Chapter 17: Getting Your Voice Heard)
- If you left care when you are 17 and 9 months and are still under age 21, you can request to re-enter care if you need help. See Chapter 10: Extended Foster Care for more information on this.
- If you were in care at age 16 or older and are under age 23, you are eligible for aftercare services. See Chapter 11: Aftercare for more information.

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<sup>1</sup> 42 PA.C.S.A § 6351(f)(8) (2016); PA.R.J.C.P 1608(d)(k).

<sup>2</sup> OFFICE OF CHILD., YOUTH, AND FAM., PA. DEP'T OF PUB. WELFARE, OCYF BULL. NO. 3130-14-01, YOUTH INDEPEND. LIVING SERVS. GUIDELINES 4 (Dec. 8, 2014), <https://www.dhs.pa.gov/docs/Publications/Documents/FORMS%20AND%20PUBS%20OCYF/OCYF%203130-14-01.pdf>.

<sup>3</sup> *Id.* at 13-14.

<sup>4</sup> See 42 U.S.C. § 12131(2) (1990) (defining “qualified individual with a disability” to mean “an individual with a disability who, with or without reasonable modifications to rules, policies, or practices . . . meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.”); 42 U.S.C. § 12132 (1990) (“[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”); 29 U.S.C. § 794(a) (2016) (“No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits or, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . .”).

<sup>4</sup> 28 C.F.R. § 35.130(d) (2016). See also *Olmstead v. L.C.*, 527 U.S. 581 (1999).

<sup>5</sup> JUVENILE LAW CENTER, TRANSITION PLANNING FOR YOUTH WITH DISABILITIES FROM THE CHILD WELFARE SYSTEM TO ADULTHOOD: A GUIDE FOR YOUTH (2013), <https://jlc.org/sites/default/files/attachments/2018-03/Transition%20Planning%20for%20Youth%20with%20Disabilities%20-%20A%20Guide%20for%20Youth%20-%20October%202013.pdf>.

<sup>6</sup> See, e.g., 42 U.S.C.A. 675(5)(c) ([T]he [permanency] hearing shall determine . . . the services needed to assist the child to make **the transition from foster care to a successful adulthood** . . .”) (emphasis added); 42 U.S.C.A. 677. This wording change was part of the Family First Prevention and Services Act, which was enacted in 2018. . 42 U.S.C.A. 677 (the “Chafee Act”) was renamed “The John H. Chafee Foster Care Program for Successful Transition to Adulthood.”

<sup>7</sup> See, e.g., 42 PA.C.S.A. § 6351(f)(8) (requiring that, at a permanency hearing, the court determines “the **services** needed to assist a child . . . to make the **transition to successful adulthood**) (emphasis added).

<sup>8</sup> 42 U.S.C.A. § 677.

<sup>9</sup> See *Id.* (describing eligibility requirements for Chafee funded services); OFFICE OF CHILDREN, YOUTH AND FAMILIES, *supra* note 2, at 4.

<sup>10</sup> OFFICE OF CHILDREN, YOUTH AND FAMILIES, *supra* note 2, at 18-19.

<sup>11</sup> 42 U.S.C.A. § 675(1)(d)

<sup>12</sup> OFFICE OF CHILDREN, YOUTH AND FAMILIES, *supra* note 2, at 19.

<sup>13</sup> *Id.* at 28-29.

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- <sup>14</sup> 42 U.S.C.A. § 675(5)(i).
- <sup>15</sup> *Id.* (requiring that children in foster care who are 14 years of age and older be provided with “assistance . . . in interpreting and resolving any inaccuracies in the report.”)
- <sup>16</sup> See *Staff Resources*, PA YOUTH ADVISORY BD., <http://www.payab.pitt.edu/StaffResources.htm>, to find contact information for your IL Coordinator.
- <sup>17</sup> *Id.*
- <sup>18</sup> Pa.R.J.C.P. 1608(d)(1)(k).
- <sup>19</sup> OFFICE OF CHILDREN, YOUTH AND FAMILIES, *supra* note 2, at 19.
- <sup>20</sup> 42 U.S.C.A. § 675(5)(h); PA.R.J.C.P. 1631(e)(2)(a).
- <sup>21</sup> PA.R.J.C.P. 1631(e)(2)(b).
- <sup>22</sup> *Id.* at 1631(e)(2)(c)-(d).
- <sup>23</sup> 42 U.S.C.A. § 675(5)(h).
- <sup>24</sup> *Id.* at § 675(5)(d).
- <sup>25</sup> *Id.* at § 675 (5)(h); PA.R.J.C.P. 1631(e).
- <sup>26</sup> PA.R.C.P. 1631(e).
- <sup>27</sup> 42 U.S.C.A. § 675(5)(h).
- <sup>28</sup> See, e.g., *Id.*; PA.R.J.C.P. 1631(f).
- <sup>29</sup> 42 U.S.C.A. 675(5)(i); PA.R.C.P. 1631(e).
- <sup>30</sup> 42 U.S.C.A. 675(5)(i).
- <sup>31</sup> *Id.*
- <sup>32</sup> PA.R.C.P. 1631(e)(2)(h)
- <sup>33</sup> *Id.* at 1631(e)(2)(i).
- <sup>34</sup> OFFICE OF CHILDREN, YOUTH AND FAMILIES, *supra* note 2, at 22-23.
- <sup>35</sup> See also JUVENILE LAW CENTER, TRANSITION PLANNING FOR YOUTH WITH DISABILITIES FROM THE CHILD WELFARE SYSTEM TO ADULTHOOD: A GUIDE FOR PROFESSIONALS IN PENNSYLVANIA (2015), [https://jlc.org/sites/default/files/publication\\_pdfs/JLC-TransitionPlanningGuide-YouthDisabilities-2015FINAL.pdf](https://jlc.org/sites/default/files/publication_pdfs/JLC-TransitionPlanningGuide-YouthDisabilities-2015FINAL.pdf).
- <sup>36</sup> 42 U.S.C.A. § 675(1)(b) (stating that a youth age 14 or older must be given the opportunity to invite up to “2 members of the case planning team who are chosen by the child and who are not a foster parent of, or caseworker for, the child.”)
- <sup>37</sup> PA.R.J.C.P. 1631(f).
- <sup>38</sup> PA.R.J.C.P. 1631(e)(2).
- <sup>39</sup> PA.R.J.C.P. 1631(e)(4).
- <sup>40</sup> PA.R.J.C.P. 1631(e)(3).
- <sup>41</sup> Youth Fostering Change, *Youth-Developed Discharge Form*, JUVENILE LAW CENTER (2018), <https://jlc.org/sites/default/files/attachments/2018-02/Youth-Developed%20Discharge%20Hearing%20Form.pdf>.

# CHAPTER 10: EXTENDED FOSTER CARE

**Introduction:** Most young people do not make the transition to adulthood until their mid-20s. They usually receive a lot of support from their families and other adults in their lives. This support allows them to focus on their goals for the future by having time to go to college, getting training, or try out different job and career paths. You deserve the same type of support if you are in foster care and have not yet found permanency or family. Extended foster care can provide you with an opportunity to continue to work towards your educational, employment, and treatment goals while receiving support, guidance, and a place to live. Extended foster care gives you more time to learn skills so when you leave foster care you have a strong foundation for success. This chapter gives you information about extended foster care and returning to care if you need support between ages 18 and 21.

## What is extended foster care?

- The foster care system used to stop—and youth would age out—at age 18. Now, the foster care system of most states, including Pennsylvania’s, extends until a youth turns age 21.
- If you are in extended foster care, you will still receive placement and services from the child welfare agency. Because you are an adult, the services you get will look different and should be age appropriate.
- You can participate in extended foster care by staying in care from age 18 on, or you can re-enter care between ages 18 and 21.

## Who decides if I can be in extended foster care?

- It is the judge who decides whether you are eligible for extended care based on the eligibility criteria that are established in the law and are described below.<sup>1</sup>
- The judge will listen to you, your lawyer, and the child welfare agency to make this decision, but in the end it is the judge who makes the decision.

## How can extended foster care help me?<sup>2</sup>

- Becoming an adult isn’t easy for anyone. From ages 17–21, you will finish high school, start college or begin your career, find a place of your own, and learn how to support yourself. There’s a lot going on!
- During this time most youth receive significant financial, emotional, and social support from adults. You also deserve support, and extended foster care can help you build your support network.
- Staying in foster care past age 18 can help you meet your goals. If you remain in care, you will:
  - Have a place to live;

- Have health insurance and access to medical and mental health treatment;
- Get support from people like social workers, case managers, your lawyer, and child advocates who can assist you in getting the services and supports you need in planning for your future; and
- Have court reviews of your case and be able to talk to your lawyer and a judge about your needs or problems you are facing.

### **How will extended foster care be similar to foster care before age 18?**

- In extended foster care you will still have court hearings and a case worker, as well as a placement and other support services. That means you will have some place to live and supportive services to help meet your financial, emotional, and social support needs, as well as continued services to help you achieve permanency.

### **How will extended foster care be different from foster care before age 18?**

- In extended foster care, you will have the opportunity to have more freedom and responsibility, and less supervision.
- You will have an opportunity to be placed in living settings that give you more freedom. These are called supervised independent living placements.
- You are legally an adult in extended foster care, and the agency should respect that by allowing you to make decisions about your own life and supporting you.

### **When should I be told about extended foster care?**

- You should be told about extended foster care as part of your transition to adulthood planning that begins at age 14.
- The Children in Foster Care act requires that you be told about your right to remain in care after age 18.<sup>3</sup>

### **Who is eligible for extended foster care?**

A youth is eligible for extended foster care if he or she is:

1. Under the age of 21 years, and
2. Was adjudicated dependent before reaching the age of 18 years, and
3. Requests that he or she participates in extended foster care, and
4. He or she is doing at least one of the following activities:
  - a. Completing secondary education or an equivalent credential;
  - b. Enrolled in an institution which provides postsecondary or vocational education;
  - c. Participating in a program actively designed to promote or remove barriers to employment;

- d. Employed for at least 80 hours per month; or
- e. Not able to do the activities listed above because of a medical or behavioral health condition.<sup>4</sup>

**Can you tell me more about the eligibility categories? What do they mean?**

**Completing high school or an equivalent program:** You are eligible for extended foster care if you are completing your high-school education or are enrolled in a program that helps prepare you for getting your General Equivalency Diploma (GED). Enrollment can be in a public high school, charter high school, an alternative high school, a nonpublic school, adult education classes, or any other course of study leading towards completion of a high school diploma, General Equivalency Degree, High School Proficiency Certificate, or High School Completion Certification.

**Enrolled in a post-secondary education or vocational program:** Being enrolled in one of these programs makes you eligible for extended foster care. A few examples of institutions that provide Post-Secondary or Vocational Education include, but are not limited to community colleges or junior colleges, four-year colleges or universities, trade schools, including Job Corps.

**Participating in a program to help you get a job (removing barriers to employment):** The specific program under this extended foster care criteria will be individualized and depend on your specific barriers to employment and what will help you address them. It is important that you talk with your caseworker and case planning team to identify the barriers you are facing and the activities or program you will be a part of to address those barriers. Examples include but are not limited to:

- programs or services recommended or provided by the county Independent Living Program;<sup>5</sup>
- vocational or trade programs;
- vocational or job skills development programs through the Office of Income Maintenance (welfare), Career Link or other Workforce Development entities;
- programs designed to improve work readiness or work skills;
- an internship that helps you gain work skills;
- treatment for a behavioral health or other issue that is needed to help you get and keep a job;
- a specific plan for an activity or services that is included in your case plan that will address barriers you are facing to employment.

**Employed for 80 hours a month:** To meet this criteria you can work a part-time or full-time position, multiple positions and unpaid or paid internship or apprenticeship (to include volunteer work.)

**Cannot do any of the activities listed above because of a documented behavioral health or medical condition:** If you have a medical or behavioral health condition that prevents you from meeting any of the above listed activity-based criteria, you can still stay in care. Talk with your

caseworker or attorney if you think you may qualify due to a disability. You will need documentation of your disability and how it prevents you from being engaged in one of the other eligibility activities. That documentation will be updated every six months and kept in your case plan.

### **Do I have to do more than one of these five activities to be eligible for extended care?**

- No. You must do at least one of the listed activities or meet the exception because you have a disability to be eligible.
- You may want to do more than one activity to achieve your transition to adulthood goals. For example, you may want to work part-time in addition to going to college or a trade school so that you can case money while you working towards a degree. Or you may want to do an internship in addition to going to school to get work experience.
- Extended foster care is meant to help you have a good transition to adulthood. Your time in extended care should be focused on how you can get the skills and other supports you need so you can leave care and have a good plan for how you will live, support yourself and continue working on your goals.

### **Should I have a secondary basis for eligibility for extended care?**

- Yes. Having two potential bases for eligibility for extended care is like having a back-up plan and that is always a good idea.
- It is recommended that you work with your case planning team to have a primary (first choice) for eligibility and a secondary choice as well. This will help you be able to respond to any challenges you are facing, get help, and remain in care.
- For example, if your primary basis for eligibility is college and your secondary basis is employment, your case plan would include information about steps you would take to get a job if you needed to and would reflect discussions you had with your team about your interests, skills and work experience. If something happens to interrupt your college plans, you could shift to pursuing your employment goals and would be ready to do that.

### **Can I change my criteria for eligibility for extended foster care?**

- Yes. You need to meet at least one eligibility criteria, but you can change your basis for eligibility if it makes sense and helps you stay on track for meeting your goals.
- However, at each permanency hearing the court must find that you still meet one of the activity requirements or the exception.<sup>6</sup>
- Both you and your team should work together to plan for possible changes so that appropriate goals and support can quickly be put in place to reflect any changes. Having a backup plan or secondary basis for eligibility can make this process easier.



**Am I still eligible for extended care if I have been arrested, adjudicated delinquent, or convicted of a crime?**

- Yes. If you meet the eligibility criteria listed above, you are still eligible for extended foster care even if you are involved in the juvenile or criminal justice system.
- This is an area that sometimes people get confused about. Please let your lawyer know if you are being told you are not eligible for extended foster care and you think that you are.

**What do I need to do to participate in extended foster care? Is it automatic?**

- Staying in care past 18 is NOT automatic.
- Staying in extended foster care is YOUR choice, and YOU have to ask the court to stay in care past 18.
- Tell your caseworker and lawyer that you want to stay in care and make sure the judge in your case knows so he or she determines that you are eligible in court.
- Your county child welfare agency may have a form or letter you can sign to make your request so ask them about it.
- Your child welfare agency should help you document how you are eligible for extended foster care.
- It is a good idea to put your request to be in extended foster care in writing. Use this form to let people know that you would like to participate in extended foster care.

**Will I still have a lawyer when I am in extended foster care?**

- Yes!
- Your lawyer should be advocating for what you want when you are in extended care.<sup>7</sup>
- Talk to your lawyer about your goals for extended care and where you hope to be when you leave care. They can help you advocate for yourself and make sure you get what you need to meet your goals.

If you want a new lawyer because you do not feel like they are doing their job, ask the judge to appoint a new attorney for you and be prepared to explain why you do not feel your current lawyer is meeting your needs.

**Will I still have a caseworker in extended foster care?**

- Yes.
- You will have a caseworker and will have case planning meetings to address your permanency and transition goals and services.

### Will I still have court hearings in extended foster care?

- Yes.
- You will still have a hearing to review your case at least once every six months.<sup>8</sup>
- The judge will review many things at these hearings, including whether you are still eligible for extended care, whether you are receiving the services and supports you need, and what help you are receiving to achieve permanency and your transition to adulthood goals.<sup>9</sup>

### Will I still have a permanency goal if I'm in care past 18?

- Yes.
- Being connected with family and supportive adults helps you as you transition to adulthood by making sure that you have people to provide guidance, stability, and love as you try new things and take on adult responsibilities.
- As long as you are in care, all efforts should be made to achieve permanency for you, whether you are age 2 or age 20. (See Chapter 1: Rights Related To Family And Permanency)

### Where can I live if I remain in care past age 18?

- Where you live depends on your needs, skills and wishes. Just like when you were under age 18, the goal is for you to be in a placement where your needs are met and that is the most family like and least restrictive.
- Here are some examples of places you could live in extended foster care:
  - Remain in your current foster or kinship home
  - Move to a new foster, kinship home
  - Live in a Transitional Living Placement where you live with about 3 to 4 other youth, have a good amount of freedom and responsibility, but still have supervision and support
  - Supervised independent living placement, which could include:
    - An apartment where you get some amount of supervision and support
    - An apartment with less support and supervision
    - A host home where you live with a host you identify
    - A college dormitory
  - Other settings approved by the court.<sup>10</sup>
- **Placement options are not limited to this list.** The child welfare agency has more flexibility to create a placement that works for you once you turn age 18. If you have ideas for placement or resources, let your worker, lawyer, and judge know.

**TIP:** If you have a good idea for a safe living arrangement that would work for you, including a relative or another resource who could find you a place to live, let your caseworker, lawyer, and court know.

### **What should I do if I want to stay in care and am being told I cannot or I am not eligible?**

- Ask to meet with your case planning teaming to talk about the five eligibility criteria and which one you might meet. There should be one that fits your needs and strengths. Ask your team to help you find it.
- Let your lawyer know you want to stay in care and ask for help.
- Make sure the judge in your case know that you want to stay in care and do not want to age out.

### **What is resumption of jurisdiction or reentry?**

- Resumption of jurisdiction-- or re-entry-- is when a youth exits care but later re-enters extended foster care between ages 18- 21.
- Most 18 -year-olds want their freedom, especially if they have been in the system for a while. Re-entry gives you the opportunity to come back into care if you decide you need help.
- Most young adults have the option to return home to family as they grow up. Re-entry attempts to provide youth who were in foster care a safety net that they may not have.
- The legal term for re-entry is resumption because the court is re-opening or resuming a dependency case that was closed.

### **Who is eligible for re-entry?**

- You are eligible to re-enter if:
  - The court closed your case when you were 17 and 9 months or older;
  - You are still under age 21; and
  - You are meeting one of the participation requirements for extended foster care.<sup>11 12</sup>

### **How can re-entering foster care help me?<sup>13</sup>**

- Re-entering foster care can help you:
  - meet your basic needs, like having a place to live.
  - handle a crises or problem that comes up for you after you leave care.

- give you support and time so you can focus on your goals

### **Who should I contact if I am interested in re-entering foster care?**

- You can contact your former county caseworker, IL worker, or lawyer and ask them for help.
- You can find the IL coordinator for your county on the Pennsylvania Youth Advisory Board website.<sup>14</sup>
- The county child welfare agency or your lawyer can file a petition for resumption of jurisdiction.
- If you are having trouble getting help, you can call Juvenile Law Center at 1-800-875-8887. Let them know you are a youth thinking about re-entering care and you are having trouble getting help.

### **How long will it take to re-enter care?**

- County child welfare agencies should handle your requests as quickly as possible, but there is not a set timeline in the law for how quickly the agency must respond to you.
- Once they determine that you are eligible to re-enter, they will file a petition with the court for resumption of jurisdiction. Your lawyer can also file a petition for resumption with the court.
- You should let the child welfare agency know if you have immediate needs like housing, health, or other things that cannot wait. They should be able to help you with these things while the re-entry process is occurring.
- Once a petition for resumption—re-entry—is filed with the court, a hearing should occur within 30 days.<sup>15</sup> Let your caseworker or lawyer know if you have immediate needs and they can help you with what you need and ask the court to schedule a hearing more quickly.

### **Can I get help while I wait for the re-entry process to happen?**

- **Yes.**
- If you are eligible, re-entry should not take a long time, but it is process that involves the child welfare agency and the courts.
- When you ask to re-enter, your child welfare agency should ask you whether you have any immediate needs and if you are safe. The child welfare agency should provide you assistance with a range of for services and supports if you need help right away.

- If you need help while waiting to re-enter and are not receiving it:
  - Talk to your IL worker, your caseworker, or a supervisor and let them know that you think you are eligible for re-entry, but need help while you wait for the case to get to court.
  - Talk to you lawyer and ask for help.

### Can I get services without re-entering care?

- Yes!
- You may be eligible for many services in aftercare as well as some other educational and health benefits. (See Chapter 11: Aftercare Services)
- Extended foster care is a good option for you if you need longer term support and need more time to figure out a good plan before you go out on your own again. Aftercare may be a good match for you if you just need help filling some gaps and want help finding resources.
- Talk with your IL worker and your lawyer about the pros and cons of re-entering care and just getting aftercare.

### What will happen once I re-enter foster care?

- If you re-enter foster care you will be able to participate in all extended foster care services.
- This means you will have a placement or living arrangement, casework services and supports, a lawyer, and you will have a case plan and go to court.
- When you are back in care you will be able to continue with and set new goals for yourself related to school, work, family and anything else you think will help you build your skills as an adult.

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<sup>1</sup> 237 PA. CODE § 1610 (2015); 237 PA. CODE § 1611 (2015) (permanency hearings and orders for children over eighteen)

<sup>2</sup> *Pennsylvania's Act 91: Extending and Re-Entering Foster Care*, JUVENILE LAW CENTER (June 8, 2015), <https://jlc.org/resources/pennsylvanias-act-91-extending-and-re-entering-foster-care>.

<sup>3</sup> 11 PA. STAT. § 2633(23) (2011).

<sup>4</sup> 42 Pa.C.S.A. § 6302 (“child”).

<sup>5</sup> OFFICE OF CHILD., YOUTH, & FAM., PA DEPT. OF PUB. WELFARE, OCYF BULL. NO. 3130-14-01, YOUTH INDEPENDENT LIVING SERVICES GUIDELINES, P. 14-15 (2014), <https://www.payab.pitt.edu/files/2014IndependentLivingServicesGuidelinesBulletin.pdf>.

<sup>6</sup> 42 Pa.C.S.A. § 6351(f)(8.1).

<sup>7</sup> Pa. R.J.C.P. 1151 (B)((1)(f).

<sup>8</sup> 42 Pa.C.S.A. § 6302; 237 PA. CODE § 1610 (2015); 237 PA. CODE § 1611 (2015).

<sup>9</sup> 237 PA. CODE § 1610 (2015); 237 PA. CODE § 1611 (2015) (permanency hearings and orders for children over eighteen)

<sup>10</sup> OFFICE OF CHILD., YOUTH, & FAM., PA DEPT. OF PUB. WELFARE, OCYF BULL. NO. 3130-14-01, YOUTH INDEPENDENT LIVING SERVICES GUIDELINES, P. 5-11 (2014), <https://www.payab.pitt.edu/files/2014IndependentLivingServicesGuidelinesBulletin.pdf>.

<sup>11</sup> 42 Pa.C.S.A. § 6351(j).

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<sup>12</sup> Juvenile Law Center, *Pennsylvania's Act 91 – Law on Re-Entering Foster Care*, YouTube (June 8, 2015), <https://www.youtube.com/watch?v=ydsjDCXvyBI>.

<sup>13</sup> Juvenile Law Center, *Pennsylvania's Act 91 – Extending and Re-entering Foster Care*, YouTube (June 8, 2015), <https://www.youtube.com/watch?v=m8lHWpPy7L8>.

<sup>14</sup> Independent Living Contact List by County, PA YOUTH ADVISORY BD., [http://www.payab.pitt.edu/IL\\_Contacts.htm](http://www.payab.pitt.edu/IL_Contacts.htm) (last visited June 8, 2020).

<sup>15</sup> 237 PA. CODE § 1635(A) (2015).

# CHAPTER 11: AFTERCARE SERVICES

## What are aftercare services?

- Aftercare services are transition to adulthood (aka IL) services that are provided to youth after they leave the formal child welfare system at age 16 or older. (See Chapter 9: Planning for the Future Transition to Adulthood and Discharge Planning)
- County child welfare agencies in Pennsylvania and across the country must provide aftercare to youth who were formerly in foster care at age 16 or older.<sup>1</sup>
- Examples of transition to adulthood services that can be provided in aftercare include:
  - Help getting a high school diploma
  - Help finding and applying for colleges
  - Career exploration and training
  - Finding and keeping a job
  - Training in daily living skills
  - Help finding a place to live
  - Help with budgeting and financial management skills
  - Support through mentors and other community-based services
  - (See Chapter 9: Planning for the Future Transition to Adulthood and Discharge Planning)
- In addition to the typical transition to adulthood services listed above, youth who left the child welfare system at age **18** or older can receive the following supports in aftercare:
  - Stipends
  - Room and board assistance (described in more detail below)

## How can aftercare help me?

- Aftercare services can help you build the skills you need to continue to reach your goals as a young adult. Just like transition to adulthood services helped you meet your goals when you were in care, you can continue to get this support to work on goals like getting and keeping a job, budgeting, finding or keeping housing, or learning other skills, after you leave care.
- Aftercare is also like a safety net that provides assistance that can help you when you have a problem and need help in the form of advice, services, a referral, and sometimes financial assistance. Leaving care can be hard and sometimes problems come up. Aftercare can help you deal with some of those issues.

### **Who is eligible for aftercare?**

- Aftercare services are available to youth ages 16 up to age 23<sup>2</sup> who have left the child welfare system. Youth are eligible if they meet at least one of the following:
  - You are between the age of 18 and 23 and aged out of the child welfare system.
  - You are between the age of 16 and 23 and left the child welfare system at age 16 or older to adoption or permanent legal custodianship (PLC)<sup>3</sup>.

### **What is room and board?**

- Room and board is available to youth who have left the foster care system at age 18 and are under age 23.<sup>4</sup>
- Room and board assistance is a type of aftercare services that helps a young person meet their housing needs.
- Room and board assistance can be provided for emergencies to meet short term needs like when a housing plan falls through.
- Room and board can also be provided for a longer period of time as part of a plan. For example, room and board assistance could be used for security deposits, utilities or furniture that help a young person get or keep housing. It could also be used to help a youth pay a portion of their rent for several months.
- If a youth receives room and board services, they will enter into an agreement with the IL program that describes the assistance the youth will receive and any requirements.<sup>5</sup>
- Each county should have a room and board policy. Ask to see the room and board policy to find out exactly what is available in your county.<sup>6</sup>

### **Who is eligible for room and board assistance?**

- A youth is eligible for room and board if they left the foster care system at age 18 or older and is still under age 23.

### **Who provides aftercare services if I move from the county where I was in foster care?**

- If you are eligible for aftercare in any county in Pennsylvania, you are eligible to receive aftercare in any county that you move to.<sup>7</sup> The county where you now live must provide aftercare.
- To request aftercare services in any county in PA that you move to, refer to the electronic resource to find out the county IL coordinator.<sup>8</sup> Call the IL coordinator for the county you are now living in and ask for aftercare services.



### **Who provides aftercare services if I move to another state after leaving the child welfare system?**

- If you are eligible for aftercare in any county in Pennsylvania, you are eligible to receive aftercare in any state that you move to.<sup>9</sup> The state you are living in must provide aftercare.
- To request aftercare services in any state that you move to, look at the Child Welfare Information Gateway website to find out the contact information for the state IL coordinator.<sup>10</sup> Call the IL coordinator for the state you are now living in and ask for aftercare services.
- You may need to provide proof that you were in foster care and are eligible for aftercare. If you do not have that documentation, call your IL worker, caseworker, or attorney from PA and ask them to help you confirm your eligibility.

### **What's the difference between extended foster care and aftercare services?**

- Extended foster care (See Chapter 10: Extended Foster Care) or foster care between ages 18 and 21, is when you stay in or re-enter the formal foster care system. When you are in extended foster care you receive placement and services from the child welfare agency. You have a caseworker, a lawyer, and go to court.
- You receive aftercare services after you discharge from the foster care system and are no longer in a child welfare placement.
- Aftercare services can provide you support to fill in gaps and deal with problems you are addressing after leaving care, but they do not provide as much support as extended foster care. If you need more support, like placement that comes with the help of a caseworker and lawyer, re-entering care may be the right thing for you.

### **Do I have to participate in aftercare services?**

- No. Aftercare services are voluntary, but they are something you have a right to and can be extremely helpful when you leave the child welfare system and need some support.

### **What is an aftercare plan?**

- The aftercare plan is a document that describes the services or supports you will receive in aftercare. It is like a case plan, but just focuses on your aftercare goals and services.
- You may need to advocate for yourself when you develop your aftercare plan. For example, if there is service you need and the child welfare agency says they do not provide, you should ask for a meeting to discuss how this service can become part of your aftercare plan. You can ask your lawyer or anyone else you consider a support or advocate to be part of the meeting.

## **What is the Chafee Education and Training Grant (ETG) and can I receive it after I leave the foster care system and am an adult?**

- The ETG<sup>11</sup> provides grants of up to \$5,000 each year to youth who are or have been in foster care who are attending post-secondary education and training.
- You can use this grant at schools in Pennsylvania or anywhere in the country as long as the school is eligible for Title IV- student assistance from the Department of Education.<sup>12</sup>
- These funds can be used to pay for tuition and costs related to attendance of school, like books, housing costs, transportation and childcare.
- To qualify, students must have been in foster care at age 16 or older and be under 26. This includes youth who were in foster care at age 16 or older and left the system to adoption or permanent legal guardianship.<sup>13</sup>

## **What is Medicaid for Former Foster Youth?**

- If you were in foster care at age 18 or older, you are eligible for Medicaid as a former foster youth. You are eligible for this coverage until age 26,<sup>14</sup> regardless of your income (how much money you make).
- If you are aging out and are eligible for Medicaid, ask your case worker if they have taken steps with the Medicaid agency to make sure you are covered as a former foster youth.
- If you left care at age 18 or older, lost your Medicaid coverage, and are still under age 26, you should apply for Medicaid coverage as a former foster youth.
- If you left care before turning 18, were not eligible for Medicaid while in care, or are over age 26, you should still apply for Medicaid. Pennsylvania has expanded access to Medicaid for adults so you may be eligible. This is good health insurance.
- Apply for Medicaid by going to your local county assistance office<sup>15</sup> or apply online on the COMPASS website.<sup>16</sup>

## **Are there any financial benefits or cash assistance that I may be eligible for once I leave the foster care system?**

Cash assistance programs are for people who fit into a particular eligibility category and have a very low income. You can apply for cash assistance at your local county assistance office. Eligibility for cash assistance is determined based on a number of factors including your income (how much money you make), citizenship, residency, and many others. Here are a few examples of cash assistance benefits that you may want to consider as you make the transition to adulthood:

### **Temporary Assistance for Needy Families (TANF).**

- TANF is a cash assistance benefit that you may be eligible for if you have very little income, and you live with your children.

- If you receive TANF, you must participate in a welfare-to-work program, unless you are excused. You must also pursue child support against your child's other parent who does not live with you, unless you have a good reason not to (such as fear of violence).
- The welfare office can modify its rules for you if you cannot comply with its welfare-to-work, child support cooperation, or other rules because of domestic violence.
- To apply for TANF you can go into your local county assistance office<sup>17</sup> or apply online on the COMPASS website.<sup>18</sup>

### **Food stamps or SNAP**

- Food stamps are funds that you can use to pay for food. They are issued on a card that looks like a credit card (an EBT card). This card can be used for food at most grocery stores and supermarkets.
- You may be eligible for food stamps if you are low income. How much you receive will depend on how much money you make and your living costs.
- To apply for SNAP you can go into your local county assistance office<sup>19</sup> or apply online on the COMPASS website.<sup>20</sup>

### **Low Income Home and Energy Assistance Program (LIHEAP)**

- LIHEAP provides funds to low income individuals to assist with heating costs.
- LIHEAP can also provide emergency grants in some cases to avoid being without any heat or to prevent a utility shut off.
- You may also be able to use LIHEAP to repair your broken heating system.
- To apply for LIHEAP you can go into your local county assistance office<sup>21</sup> or apply online on the COMPASS website.<sup>22</sup>

### **Women, Infants and Children Program (WIC)**

- The WIC program provides funds for food like milk, eggs, and fruit, and nutrition programs.
- You may be eligible if you meet income requirements and are pregnant, have recently given birth, are breastfeeding. Your child may be eligible for WIC if she or he is age 5 or younger.
- For more information on applying for WIC for yourself or your child, you can visit [www.pawic.com](http://www.pawic.com), call 1-800-WIC-WINS or visit your local WIC program office. You can start the process by filling out the WIC Pre-Application online.<sup>23</sup>

### **Supplemental Security Income (SSI)**

- (See Chapter 6: Youth With Disabilities)

## What do I do if I'm having a difficult time getting aftercare services or the aftercare services I think I need?

- Contact your caseworker, IL worker, and lawyer and ask for a meeting to talk about aftercare services.
- (See Chapter 17: Getting Your Voice Heard)

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<sup>1</sup> 42 U.S.C.A. § 677 (a)(4) & (b)(3)(A)(2018); OFFICE OF CHILD., YOUTH, & FAM., PA DEPT. OF PUB. WELFARE, OCYF BULL. NO. 3130-14-01, YOUTH INDEPENDENT LIVING SERVICES GUIDELINES, P. 35 (2014),

<https://www.payab.pitt.edu/files/2014IndependentLivingServicesGuidelinesBulletin.pdf>.

<sup>2</sup> As of July 1, 2020, young people are eligible for aftercare services until age 23. Before July 2020, aftercare services are available until age 21.

<sup>3</sup> OFFICE OF CHILD., YOUTH, & FAM., PA. DEPT. OF PUB. WELFARE, OCYF BULL. NO. 3130-14-01, YOUTH INDEPENDENT LIVING SERVICES GUIDELINES, P. 4, 35 (2014); 42 U.S.C.A. § 677 (a)(6) & (a)(4)(2018).

<sup>4</sup> 42 U.S.C.A. § 677(b)(3)(C)(2018).

<sup>5</sup> OFFICE OF CHILD., YOUTH, & FAM., PA. DEPT. OF PUB. WELFARE, OCYF BULL. NO. 3130-14-01, YOUTH INDEPENDENT LIVING SERVICES GUIDELINES, P. 31 (2014).

<sup>6</sup> OFFICE OF CHILD., YOUTH, & FAM., PA. DEPT. OF PUB. WELFARE, OCYF BULL. NO. 3130-14-01, YOUTH INDEPENDENT LIVING SERVICES GUIDELINES, P. 30-31 (2014).

<sup>7</sup> 42 U.S.C.A. § 677(b)(3)(A)(2018); *Child Welfare Policy Manual*, CHILDREN'S BUREAU, Question 3, Sec. 3.1F, [https://www.acf.hhs.gov/cwpm/public\\_html/programs/cb/laws\\_policies/laws/cwpm/policy\\_dsp\\_pf.jsp?id=3](https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp_pf.jsp?id=3).

<sup>8</sup> Independent Living Contact List by County, PA. YOUTH ADVISORY BD., [http://www.payab.pitt.edu/IL\\_Contacts.htm](http://www.payab.pitt.edu/IL_Contacts.htm).

<sup>9</sup> 42 U.S.C.A. § 677(b)(3)(A)(2018); *Child Welfare Policy Manual*, CHILDREN'S BUREAU, Question 3, Sec. 3.1F, [https://www.acf.hhs.gov/cwpm/public\\_html/programs/cb/laws\\_policies/laws/cwpm/policy\\_dsp\\_pf.jsp?id=3](https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp_pf.jsp?id=3).

<sup>10</sup> *State Independent Living and Education and Training Voucher (ETV) Coordinators*, CHILD WELFARE INFORMATION GATEWAY, [https://www.childwelfare.gov/organizations/?CWIGFunctionsaction=rols:main.dspList&rolType=Custom&RS\\_ID=145](https://www.childwelfare.gov/organizations/?CWIGFunctionsaction=rols:main.dspList&rolType=Custom&RS_ID=145).

<sup>11</sup> The federal Chafee program is called Education and Training Vouchers (ETV). In Pennsylvania, the program is called Education and Training Grant to make clear that this is a grant program.

<sup>12</sup> *The Federal School Code List*, FED. STUDENT AID OFFICE OF THE DEP'T OF EDUC., <https://ifap.ed.gov/ilibrary/document-types/federal-school-code-list>. (list of schools that receive Title IV aid from the Department of Education).

<sup>13</sup> 42 U.S.C.A. § 677(i)(2018).

<sup>14</sup> 42 U.S.C.A. § 1902(a)(10)(A)(i)(IX)(2018).

<sup>15</sup> *County Assistance Office Contact Information*, PA. DEPT. OF HUM. SERV., <https://www.dhs.pa.gov/Services/Assistance/Pages/CAO-Contact.aspx>.

<sup>16</sup> COMPASS, <https://www.compass.state.pa.us/compass.web/Public/CMPHome>.

<sup>17</sup> *County Assistance Office Contact Information*, PA. DEPT. OF HUM. SERV., <https://www.dhs.pa.gov/Services/Assistance/Pages/CAO-Contact.aspx>.

<sup>18</sup> COMPASS, <https://www.compass.state.pa.us/compass.web/Public/CMPHome>.

<sup>19</sup> *County Assistance Office Contact Information*, PA. DEPT. OF HUM. SERV., <https://www.dhs.pa.gov/Services/Assistance/Pages/CAO-Contact.aspx>.

<sup>20</sup> COMPASS, <https://www.compass.state.pa.us/compass.web/Public/CMPHome>.

<sup>21</sup> *County Assistance Office Contact Information*, PA. DEPT. OF HUM. SERV., <https://www.dhs.pa.gov/Services/Assistance/Pages/CAO-Contact.aspx>.

<sup>22</sup> COMPASS, <https://www.compass.state.pa.us/compass.web/Public/CMPHome>.

<sup>23</sup> *WIC Pre-Application*, PA. WOMEN, INFANTS AND CHILDREN PROGRAM, <https://www.pawic.com/OnlineApplication.aspx>.

# CHAPTER 12: GETTING YOUR VITAL DOCUMENTS

**Introduction:** Having your vital documents is essential to your transition plan and success in adult life. If you do not have proof of who you are, it is hard to do things like get a job, save money, rent an apartment, get benefits, and travel. This chapter gives you information so you can make sure you get your vital documents before you leave care,

## What are vital documents?

- A vital record is a government document containing information about a person's important life events. Examples of vital records include your original birth certificate, social security card, and state identification (ID) or driver's license.

## Why do I need my vital documents?

- Vital documents are important because you need them to do most of the things that you need to do to be successful as an adult. For example, you need identification to get a job, open a bank account, apply for benefits, get an apartment, apply for a GED, and apply for college. You need identification to be able to go places you want and need to go, like entering certain building and traveling.
- Without vital documents it is very hard to prove you exist and do the things you need to do.

## Should the child welfare agency make sure I have my vital documents before I leave foster care at age 18 or older?

- The law requires the child welfare agency to request these documents for you and provide them to you before you leave care at age 18 or older.
- Before the child welfare agency and the court can close your case, they must provide you the following: an official or certified copy of your birth certificate, a security card issued by the Commissioner of Social Security, health insurance information, medical records, and a driver's license or identification card issued by the state, and documentation that proves you were in foster care.<sup>1</sup>

## What should I do if I am about to be discharged from foster care and I have not received my vital documents?

- Let your lawyer know and let the judge in your case know if you do not have your vital documents and are about to be discharged from care.
- **The judge should not close your case if you do not have your vital documents and should order actions be taken so the documents are provided to you.** The judge

should keep the case open until these actions are completed and you have your documents.<sup>2</sup>

- If you do not have your vital documents, you should start asking about them at least a year before you discharge. Asking about them at your case planning and court hearings a year and then 6 months before discharge will help make sure your documents are ordered and you receive them before you leave care.

### **I'm 18 or older. How do I request my birth certificate on my own if I was born in Pennsylvania?**

- The cost of a birth certificate is \$20. You can learn about the different ways to order your birth certificate online.<sup>3</sup>
- You can also go to a local office that processes birth certificate requests. Offices are located in Erie, Harrisburg, New Castle, Pittsburgh, Scranton, and Philadelphia. You can find their locations and hours online.<sup>4</sup>
- Download the birth certificate application online.<sup>5</sup>
- You will need Pennsylvania state government issued photo ID to request a birth certificate. If you do not have photo ID, you can present other proof of your identity and address, like pay stubs, bank statements, utility bills, and mail from a government agency or public benefits agencies. If you do not have this kind of proof, ask a caseworker or other service provider to make the request for you.

### **How do I request my social security card on my own?**

- You need to apply for a social security card in person. There is no cost for a social security card.
- Use the Social Security Office Locator and type in your zip code to find your local office.<sup>6</sup>
- Complete an application in advance application and take it to your local office.<sup>7</sup>
- You will need to show proof of who you are, usually a form of a government issued state ID, to get a replacement social security card.

### **How do I get a state ID?**

- The Pennsylvania Department of Transportation (PennDOT) provides state IDs. Find a PennDOT office online.<sup>8</sup> The cost of state ID is \$31.50, payable only by check or money order.
- You must go in person to a PennDOT office to fill out the application. You can print out and complete the application<sup>9</sup> beforehand and bring it to the PennDOT office along with: proof that you are a U.S. citizen, your Social Security card, and, if you are over 18 years old, two proofs of your residency in Pennsylvania.<sup>10</sup>

## How do I get help getting valid immigration status and documents?

See Chapter 13: Immigration.

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<sup>1</sup> 42 U.S.C.A § 675(5)(i).

<sup>2</sup> 42 U.S.C.A. § 675(5)(i) (specifying that a child who is age 18 or older “is not discharged from care without being provided with “your birth certificate, health insurance information, and other vital documents described therein); PA.J.R.C.P. 1631(e)(2)(g) (requiring that a transition plan include “verification that all vital documents and records have been provided to the child”); PA.J.R.C.P. 1631(e)(3) (“If the court is not satisfied that the requirements of [the transition plan] have been met, a subsequent hearing shall be scheduled.”); PA.J.R.C.P. 1631(e)(4) (“The court shall not terminate its supervision of the child without approving an appropriate transition plan . . . .”)

<sup>3</sup> *Certificate Ordering Information*, PENNSYLVANIA DEPARTMENT OF HEALTH, <https://www.health.pa.gov/topics/certificates/Pages/Ordering.aspx>.

<sup>4</sup> *Public Offices*, PENNSYLVANIA DEPARTMENT OF HEALTH, <https://www.health.pa.gov/topics/certificates/Pages/Public-Offices.aspx>.

<sup>5</sup> PA. DEP’T OF HEALTH, FORM PA. H105, *Application for a Birth Certificate* (2018), [https://www.health.pa.gov/topics/Documents/Certificates%20and%20Records/Application\\_for\\_a\\_Birth\\_Certificate.pdf](https://www.health.pa.gov/topics/Documents/Certificates%20and%20Records/Application_for_a_Birth_Certificate.pdf).

<sup>6</sup> *Social Security Office Locator*, SOCIAL SECURITY ADMINISTRATION, <https://secure.ssa.gov/ICON/main.jsp>.

<sup>7</sup> SOCIAL SECURITY ADMINISTRATION, FORM SS-5, *Application for a Social Security Card* (2019), <https://www.ssa.gov/forms/ss-5.pdf>.

<sup>8</sup> *Locations Info Center*, PENNSYLVANIA DEPARTMENT OF HEALTH, <https://www.dot3e.penndot.gov/locator/locator.jsp>.

<sup>9</sup> PA. DEP’T OF TRANSP., FORM DL-54A, *Application for Initial Identification Card*, <http://www.dot.state.pa.us/public/dvspubsforms/BDL/BDL%20Form/DL-54A.pdf>.

<sup>10</sup> PA. DEP’T OF TRANSP., PUB. 195US, *Identification and Residency Requirements for U.S. Citizens*, <http://www.dot.state.pa.us/Public/DVSPubsForms/BDL/BDL%20Publications/pub%20195us.pdf>.

# CHAPTER 13: IMMIGRATION

**Introduction:** Having valid immigration status is so important to making a successful transition to adulthood. Without it, it will be hard to work, go to school, and access services and benefits. This chapter provides you basic information about what you should think about and when to get help so you can make sure you get valid immigration status before leaving foster care.

## **How do I find out what my immigration status is?**

- If you were not born in the U.S., you must get documentation of your immigration status as soon as possible—especially before you age out of care. This is really important for ensuring that you can be employed and have access to services and benefits as an adult.
- There are many immigration categories in the United States. Most people fall into one of three categories: U.S. citizens, green card holders (also known as legal permanent residents), and undocumented immigrants (who do not have legal status in the United States). But there are also many other immigration categories—such as being a refugee, having Special Immigrant Juvenile Status, or temporary protected status—that still allow you to remain in the country legally.
- If you have questions or concerns about your immigration status, speak to your dependency lawyer who will help you figure your status out. Immigration is a special and complicated area of the law, and it is important for you to get good advice so you can get the help you need.

## **I am undocumented and in the foster care system. How do I find out if I qualify for any pathways to citizenship or a valid immigration status?**

- Make sure your lawyer knows your immigration status, especially if you are undocumented. There are special immigration categories the U.S. government has set up for people, including youth, who are unable to return to their home country. It's important to get a valid immigration status, and there are options for a youth under age 18 that you should take advantage of.

## **What are examples of immigration statuses that I may be eligible for?**

Here are some examples of immigration categories that sometimes provide pathways to a valid immigration status:



- **Special Immigrant Juvenile Status (SIJS):** SIJS is a special immigration category for youth who are in foster care that allows the youth to stay in the country, work, and eventually get a green card. **You must file your SIJS petition with the Immigration Service before you turn 21.** You can still get SIJS if you are adopted or you live with family members who are in the U.S. Youth granted SIJS are eligible to seek a green card. However, if a green card is granted, youth can never sponsor their parents to immigrate to the U.S.

To be eligible for this status, you must demonstrate to the family court that:

- You are under 21;
  - You are not married;
  - You are dependent on the court or placed in the custody of an agency or individual appointed by the court;
  - You cannot be reunited with either of your parents because of problems at home such as abuse, neglect or abandonment, or a similar basis under Pennsylvania law, and
  - It's not in your best interest to go back to your home country.
- **Asylum:** You may be eligible for asylum if you or your family are afraid to return to your country due to past or future persecution because of your race, religion, nationality, political opinion, or membership in a particular social group.
  - **Refugee status:** Refugees are people who fled their countries because of persecution and who the U.S. government has allowed to enter the U.S. through the refugee resettlement program. It's not something that you apply for after you have already entered the U.S. Refugees may apply for a green card after living in the U.S. as a refugee for one year.
  - **U or T visas:** You may be eligible for a "U" visa if you were a victim of a violent crime while in the U.S. and if you helped law enforcement to investigate or prosecute the crime (for example, by making a police report or speaking with an investigator). You may be eligible for a "T" visa if you are present in the U.S. because you were a victim of human trafficking (for example, if someone forced, tricked, or intimidated you into coming to the U.S. to work).
  - **Violence Against Women Act (VAWA):** You may be eligible to remain in the U.S. under VAWA if you are the spouse or child of a U.S. citizen or legal permanent resident and you have been the victim of their abuse.
  - **Deferred Action for Childhood Arrivals (DACA):** DACA provides temporary permission to remain in the U.S. for certain people who entered the U.S. as children on or before June 15, 2007 and meet other requirements. Those eligible for DACA may receive work authorization for two years, and some states, including Pennsylvania, permit DACA recipients to obtain driver's licenses. DACA alone does NOT allow you to seek a green card. On September 5, 2017, the federal government ended the DACA program and will

not accept new applications. **However, people who already had DACA can continue to file applications to renew it.**

- **Temporary Protected Status (TPS):** You may be eligible to temporarily remain in the U.S. if the U.S. government has granted citizens of your country this status because the country is experiencing ongoing problems, like a civil war, natural disaster, or other national emergency. TPS alone does NOT allow you to apply for a green card. To find out which countries currently have TPS, you can check online through the U.S. Citizenship and Immigration Service.<sup>1</sup>

### **Who can help me understand or apply for valid immigration status?**

- **You will need an immigration lawyer to help determine if you are eligible for any of these categories, and to assist with the application process.** Your child welfare lawyer can help you find an immigration lawyer. You can also call HIAS at **215-832-0900**. HIAS is an immigration organization that can help you find immigration assistance in the state of Pennsylvania.

### **What immigration documents should I have?**

- If you are not a U.S. citizen, it's important that you have copies of documents that show your legal immigration status, especially if you are transitioning out of care.
  - **An immigration attorney can help you determine what documents you need and how you can go about getting them.** It is important for you to get both the original and copies of your passport—including any pages with stamps that show your status as a green card or visa holder, your green card, your social security card, and any work permits that you have been issued by the U.S. government.

### **Is getting valid immigration status part of my discharge/transition plan?**

- Yes. Without documentation that you have valid immigration status it will be hard to make a successful transition to adulthood. You will need this documentation to be able to work, go to school, and access benefits.
- The judge cannot close a case of youth who is age 18 or older without an acceptable transition plan that includes at least:
  - the specific plans for housing;
  - a description of the child's source of income; the specific plans for pursuing educational or vocational training goals;
  - the child's employment goals and whether the child is employed;
  - a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child;

- a description of any available programs that would provide mentors or assistance in establishing positive adult connections; and
- verification that all vital identification documents and records have been provided to the child; a description of any other needed support services.<sup>2</sup>

Without valid immigration status, you will not be able to complete a successful transition plan.

**What tips do you have to help make sure I have a valid immigration status before I leave foster care?**

- Make sure that getting your valid immigration status is part of your transition to adulthood plan as soon as possible since applying for immigration status takes time.
  - Make sure that there are concrete goals and action steps in your transition to adulthood and case plans so steps are taken to help you apply for status.
  - Steps could include: making sure you meet with and have an immigration attorney; helping you arrange and go to any meetings with the immigration agency; and help in gathering any documentation needed for applications for status.
- Make sure your lawyer helps you raise at your court hearings any help you need in order to get valid immigration status.
- Make sure you and your lawyer oppose any efforts to close your case if you do not yet have valid immigration status.

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<sup>1</sup> *Temporary Protected Status*, U.S. CITIZENSHIP AND IMMIGRATION SERVS. (Mar. 30, 2020), <https://www.uscis.gov/humanitarian/temporary-protected-status>.

<sup>2</sup>PA.J.R.C.P. 1631 (e)(3-4) (requiring that the court review the transition plan and that it “shall not terminate its supervision of the child without approving an appropriate transition plan”).

# CHAPTER 14: JUVENILE AND CRIMINAL JUSTICE SYSTEM INVOLVEMENT AND EXPUNGEMENT

**Introduction:** This chapter provides you information on the juvenile justice and criminal justice systems so you know about your basic rights and how to get help if you are still in the foster care system. This chapter also provides information on how to expunge—or erase—your juvenile record. If you have a juvenile record, requesting to expunge it before you leave foster care at age 18 or older if you are eligible is very important. This is not a full guide to the juvenile and criminal justice systems in Pennsylvania; it just gives you some key information to use as you plan for your future and leaving the foster care system. See, “A Family Guide to Pennsylvania’s Juvenile Justice System,” for more information on the basics of juvenile justice system in PA.<sup>1</sup>

## What should I do if I get a ticket or am arrested?

- Let your lawyer in your dependency case know immediately if you have any sort of contact with police or law enforcement. This could include a stop, search, arrest, or getting a ticket or citation. Some offenses may impact your dependency case, and it is important that your lawyer knows.
- Even very minor offenses, like shoplifting, getting on the subway without paying, and disorderly conduct, can cause you to have a criminal record if they aren’t properly handled. The justice system can be complicated and in some cases you may not have a right to a lawyer. Getting help is especially important so you are not on your own.
- Let your lawyer know as soon as possible if you get any sort of citation or fine, or if you are arrested.

## What happens if I am in foster care and get involved with the juvenile or adult criminal justice system?

- If you are arrested or are concerned that you may have charges filed against you, the most important thing for you to do is to let your lawyer in your dependency case know. Your lawyer can help make sure you are properly represented and get all the help and support you need as you go through the court process.
- In most cases, a youth who is under age 18 and is arrested and charged with an offense will be in the juvenile justice system.
  - There are some exceptions to this.<sup>2</sup> For example, if a youth is charged with murder at any age, they will be charged in the adult criminal system. If a youth is age 15 or older and charged with serious offenses like rape and aggravated

assault, they will be charged in the adult system. In these situations, they may be able to come back to the juvenile system in some cases.

- If you are age 18 or older and get arrested, you will be dealing with the adult criminal justice system, even if you are still in the foster care system.
- If you are arrested or encounter either justice system, you probably will have a lot of questions. The answers depend on the specific details of your case, so the best person to ask is the lawyer who is appointed to represent you in your juvenile or criminal case.

### **What is a summary offense?**

- A summary offense is the most minor type of criminal offense in Pennsylvania, and is sometimes called a “non-traffic citation.”
- Summary offenses can include offenses like disorderly conduct, loitering, harassment, and low-level retail theft, among others.
- A conviction for a summary offense usually results in a fine. If you want to challenge the charge, you need to go to court on the date the ticket or notice tells you.
- You should get legal help and assistance if you get a summary citation or a ticket. Ignoring it will not make it go away.
- If you are convicted of a summary offense it is considered a criminal conviction even if you are under age 18, and it may appear on a background check that an employer runs.
- See below for information about if and how you can expunge or erase a criminal record from summary offense.

### **Who is my lawyer? Will I have more than one if I am in foster care and then get involved with the criminal or juvenile justice systems?**

- If you become involved in the juvenile or criminal justice system, in most cases you will get appointed a lawyer to represent you.
- You have a right to a lawyer to represent you in most cases. As a child or youth you do not have to pay for the lawyer and a public defender is appointed to you.<sup>3</sup> You can hire your own attorney if you want.
- Your lawyer in your juvenile or criminal case represents you and takes direction from you (not from your parents or other adults in your life.)
- The only situations where you may not get an attorney are if you are charged with a summary offense. See above.
- You will still have your lawyer from your dependency case, but they usually will only represent you in your dependency case, not in your juvenile or criminal justice case.
- This means that you will likely have *two* attorneys: one for your dependency case and one for your juvenile or criminal case. It is important that they are communicating and coordinating. You can help them do this by making sure they have each other’s contact

information and by keeping both of them updated about what is happening. Don't assume that they are talking to each other!

### **What will court be like if I have a juvenile or criminal justice matter?**

- What happens in court can be very different depending on what county you are in. Ask your lawyer for your juvenile or criminal case what happens in your county, and how best to prepare for court.
- Some counties have a "crossover court," where the same judge hears both dependency and delinquency matters, and they can be addressed in the same hearing.
- Other counties may have a "one family – one judge" policy, where the same judge is assigned to both your dependency case and your delinquency case.
- In some counties, the cases might be handled entirely separately. This will also happen if you are facing adult charges in criminal court.

### **Will I be placed if I am adjudicated delinquent?**

- If you are "adjudicated delinquent" (or found to have committed an offense through the juvenile justice system), the court will order some sort of "disposition."
- A disposition is like a sentence or requirements for what services you will receive and things you need to do. This disposition may or may not include "placement," probation, or a community-based program.
- Under Pennsylvania law, all of the same placements that are available through the child welfare system (foster care, kinship care, group homes, etc.) are also available as possible delinquency dispositions.<sup>4</sup>
- It's rare, but judges also have the option of placing you in a secure institution or state facility, which is the most restrictive type of setting.
- Talk to both of your lawyers about what your placement options may be for your specific case, so that you can get the best advocacy possible. If you are in a foster care or other placement in the dependency system and you want to stay there, let both of your lawyers know so they can advocate for that.

### **Will I still get child welfare services if I am in the juvenile justice or criminal justice system?**

- You can be involved in the juvenile justice, criminal justice and dependency system at the same time. This is called shared case responsibility.<sup>5</sup>
- Even if you are involved in the juvenile or criminal justice systems, you are still entitled to all the available child welfare services for as long as you are involved in the dependency system and eligible for those services.

- Your dependency case should not be closed just because you have become involved in the justice system, and you should still have a permanency goal, case planning, transition to adulthood services, and all other child welfare services.
- In addition, as long as you meet the eligibility criteria for extended foster care, you can stay in care past age 18, even if you have involvement with the juvenile or criminal justice system.
- Make sure both of your lawyers know about the services you are currently receiving so they can ensure you continue to get them. Let them know if you are not getting services you think you need.

### **How do I know if I have a juvenile or criminal record, and what do I do about it?**

- Ask your lawyer about whether you have a record in the juvenile justice or criminal justice system and whether you can expunge these records.
- Whether or not you will have a record and whether it is eligible for expungement, depends on the particular offense. For more information check out the Expunge Philly Website or call your public defender or probation office.<sup>6</sup>

### **Are my juvenile justice records confidential?**

- It depends:
  - If you were 14 or older and were charged with serious offenses, your record is open to the public.<sup>7</sup>
  - All other records juvenile records are kept confidential.<sup>8</sup>
- Your school will be notified if you were adjudicated delinquent and be given some information about the offense. This information must be kept separate from your school records.<sup>9</sup>

### **Is my juvenile record automatically expunged (erased) or sealed when I turn 18?**

- No. Juvenile records are not automatically expunged or sealed in Pennsylvania.
- If you are eligible, you can request to have your juvenile record expunged.
- For more information, refer to the Expunge Philly Website.<sup>10</sup>

### **Who is eligible for juvenile record expungement in Pennsylvania?**

- You can petition (file a request with) the court to expunge your juvenile record and the court **must** grant your petition if the following apply to your case:
  - The charges against you were withdrawn or dismissed, or you were found “not guilty.”
  - Six months have passed since supervision has ended under a “consent decree,” diversion program, or an informal adjustment and no new charges are pending.

- You were adjudicated delinquent and five years have passed since the end of your supervision with no new adjudications or adult convictions.
- You can petition (file a request with) the court to expunge your juvenile record and the court **may** grant your request and expunge your record if:
  - The District Attorney (the lawyer for the state) agrees to the expungement and the court approves after the consideration of a few factors required by the law.<sup>11</sup>
- Visit the Expunge Philly Website to see if you are eligible to have your record expunged.<sup>12</sup>

### **How can I get a juvenile record expunged?**

- Call the public defender's office or probation office in the county where your case was.
- Before you leave the child welfare system, ask if you are eligible for expungement and get help with the process if you are eligible. It is much easier to get help with this while you are still in care.
- Visit the Expunge Philly Website to see if you are eligible to have your record expunged.<sup>13</sup>

### **What is Expunge Philadelphia and can I use it even if I do not live in Philadelphia?**

- Expunge Philadelphia is a website that gives you information on whether you are eligible to expunge or erase a juvenile record in Pennsylvania.
- You can get information on the website about whether you are eligible or not even if your case was not in Philadelphia.
- Once you get the information from the website, you will need to call the public defenders office in the county where your case was to get help with the actual expungement process.

### **Can I get a summary offense expunged if I was convicted of it before I turned 18?**

You can petition (file a request with) the court to expunge your summary offense and the court must grant your petition if the following apply to your case:

- You were convicted of a summary offense when you were under age 18, you are now age 18 or older, and six months have passed since your completion of all conditions of your disposition or sentence and you have not had any new adjudications or adult convictions.
- You are 18 or older, and six months have passed since your completion of all conditions of your disposition or sentence related to an adjudication for underage drinking and you have not had any new adjudications or adult conviction.<sup>14</sup>



## If I have a criminal record, is it confidential?

No. Criminal records, which are records of offenses in the adult criminal justice system, are public.

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<sup>1</sup> PA. COUNCIL OF CHIEF JUVENILE PROBATION OFFICERS, A FAMILY GUIDE TO PENNSYLVANIA'S JUVENILE JUSTICE SYSTEM, <https://www.pachiefprobationofficers.org/docs/Family%20Guide%20to%20PA%20Juvenile%20Justice%20System.pdf>

<sup>2</sup> 42 Pa.C.S.A. § 6302 (2018) (definition of a "delinquent act").

<sup>3</sup> 42 Pa.C.S.A. § 6337 (2012) (right to counsel); 42 Pa.C.S.A. § 6337.1 (2012) (specifying that all delinquent youth are presumed to be indigent (without any income) and that youth must have a lawyer at all delinquency proceedings).

<sup>4</sup> 42 Pa.C.S.A. § 6352(a)(1) (2012).

<sup>5</sup> OFFICE OF CHILD., YOUTH, & FAM., PA. DEPT. OF PUB. WELFARE, OCYF BULL. NO. 3130-10-01, SHARED CASE RESPONSIBILITY POLICY AND PROCEDURES (2010), <https://www.dhs.pa.gov/docs/Publications/Documents/FORMS%20AND%20PUBS%20OCYF/OCYF%203130-10-02%203140-10-03.pdf>.

<sup>6</sup> *Expunge Philadelphia*, DEFENDER ASSOCIATION OF PHILADELPHIA & JUVENILE LAW CENTER, <http://expungephiladelphia.com/>

<sup>7</sup> 42 Pa.C.S.A. § 6307(b)(1.1)(i) & (ii) (2019).

<sup>8</sup> *Id.* § 6307(b).

<sup>9</sup> 42 Pa.C.S.A. § 6341(b.1) (2018) (school notification).

<sup>10</sup> *Expunge Philadelphia*, DEFENDER ASSOCIATION OF PHILADELPHIA & JUVENILE LAW CENTER, <http://expungephiladelphia.com/>

<sup>11</sup> 18 Pa.C.S.A. § 9123(a)(1)-(4) (2014).

<sup>12</sup> *Expunge Philadelphia*, DEFENDER ASSOCIATION OF PHILADELPHIA & JUVENILE LAW CENTER, <http://expungephiladelphia.com/>

<sup>13</sup> *Id.*

<sup>14</sup> 18 Pa.C.S.A. § 9123(a)(2.1) & (2.2) (2014).

## CHAPTER 15: EXPECTANT AND PARENTING YOUTH

**Introduction:** If you have a child while you are in foster care or come into foster care with your own child it is important to know your rights as a parent. You have the legal rights to care for your child like any other parent and being in foster care does not change that. This chapter gives you information on some of the rights you have as a parent when you are in foster care.

**If I am in foster care, does that mean my baby is also automatically dependent and a foster child?**

- **No.**
- Your child cannot be found dependent and placed in foster care simply because you are in care or because you are young. This is against the law.<sup>1</sup>
- **You have full rights as a parent, and young parents must be given the same chance to parent as any other parent.**
- Your baby should remain in your physical and legal custody, and you keep all rights to make educational and medical decisions for your child.
- If the county child welfare agency files a petition to have your baby found dependent by the court, you are entitled to representation by an attorney that will protect your rights as a parent. This should be a separate lawyer from the one who represents you in your own case as a dependent youth.

**Will I be placed with my child if I have baby and I am in foster care?**

- You should be placed with your child. All efforts must be made to make this possible. There are some placements specifically for mothers in foster care, such as mother/baby foster or group homes, and mother/baby Supervised Independent Living (SIL) placements.
- You should let your lawyer know if you are not placed with your child. As with any other dependent youth, all efforts should be made to keep you with your family, place you in the most family-like setting, and achieve your permanency goal.

**Do fathers in foster care have parental rights too?**

- **Yes.**
- Fathers in foster care have the same rights as mothers. Fathers who are in care can:
  - Ask to be placed with their children;
  - Ask for parenting services and supports; and
  - Have visitation with their child.

- Ask your caseworker and attorney if you have questions about your rights to visitation and other parenting services.

### **What types of services can my child and I receive?**

- You should receive all the supports and services that any young person in foster care receives. That includes help to return to your family and to find family, placement, transition to adulthood services, and any other supports to meet your needs.
- If you are pregnant or parenting, your needs will include taking care of your child and learning parenting skills. This could include parenting skills support and instruction and assistance in getting childcare. It should also include support in arranging for any services that your child needs.
- You may also be eligible for certain public benefits if you are pregnant or parenting. Examples may include: Food stamps, WIC, and possibly TANF. You are entitled to help in applying for these benefits as well.

### **How do I get help finding and paying for childcare?**

- The child welfare agency should help you arrange for childcare so that you can take part in activities like school, work, and activities in the community.
- Many teen parents will qualify for subsidized childcare, called Child Care Works, and the child welfare agency should help you apply.
- To qualify for Child Care Works, teen parents under 18 must be attending school or some other educational program. If you are still in school when you reach age 18, you may still meet the requirements by attending school. Parents age 18 or over must be working at least 20 hours a week, be working at least 10 hours a week and going to school or training at least 10 hours a week, or be attending an educational program.
- Ask your caseworker for information about childcare and application assistance. To learn more about subsidized childcare, see the Department of Human Services website.<sup>2</sup>

### **What is child support and how do I apply for it?**

- Child support is money paid by the “non-custodial” parent (the parent who does not live with the child) to the “custodial” parent (the parent who lives with the child) to help meet the needs of the child.
- You can file for child support at your county’s domestic relations court or office. Your caseworker or lawyer can help you file for child support.
- If you are out of care and receiving cash assistance, you may not be able to receive child support directly. Instead, child support may go to the county agency to pay them back

for the cash assistance. Talk to your caseworker about the effect of child support on your TANF benefits.

### **Can I be asked to pay child support if I am in care?**

- Yes.
- A non-custodial parent who does not live with his or her child, even a parent who is under 18, in placement, and/or still in high school can be required by the court to pay child support.
- If you are being asked to pay child support and do not have any money to pay it, talk to a lawyer so that they can help you provide that information to the court.

### **How can I advocate for myself as a parent?**

- Make sure you know your legal rights as a parent, ask questions if you need to, and talk to a lawyer if you think your rights are not being respected.
- You deserve support as a young person and as a parent. Make sure your case plan and transition plan include goals—and supports to help you achieve those goals-- for you as a young adult and as a parent. You deserve support in both areas!
- Make sure you talk to your lawyer and raise any issues in court to make sure you get the help you need.

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<sup>1</sup> In Interest of Hall, 703 A.2d 717, 719 (Pa. Super. Ct. 1997) (determining that the law does not support “an adjudication of dependency under the Juvenile Act simply because the mother is in foster care or simply due to the age of the parents”).

<sup>2</sup> *Child Care Works Subsidized Child Care Program*, PENNSYLVANIA DEPARTMENT OF HUMAN SERVICES, <https://www.dhs.pa.gov/Services/Children/Pages/Child-Care-Works-Program.aspx>.

# CHAPTER 16: LGBTQIA PROTECTIONS

Introduction: All youth in the foster care system deserve to be treated with respect, to be safe, to have their needs met, and to be supported in achieving their goals. Youth who identify as Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, or Asexual (LGBTQIA) deserve the same protections and support as all young people. Like all youth, they also have the right to be accepted and affirmed. This chapter provides information on some of the specific laws and requirements that exist to protect LGBTQIA individuals specifically, as well as how laws that apply to all youth may be useful to you.

## Are youth in foster care who identify as LGBTQIA protected from discrimination and bad treatment?

- Yes. While Pennsylvania does not have one law that prevents discrimination for young people in the foster care system based on their LGBTQIA status, the following laws protect you from discrimination and bad treatment and can be used to help ensure that the identity you choose is supported.
  - **Protection under the Children in Foster Care Act:** This law requires that all youth in care:
    - Be treated with fairness, dignity, and respect;
    - Be free from harassment;
    - Be free from discrimination because of gender; and
    - Have the ability to live in the least restrictive, most family-like setting that is safe, healthy, and comfortable and meets the child's needs.<sup>1</sup>
  - **Protection under the Juvenile Act:** This law requires that all youth in the foster care system be provided with services that provide them safety, protection, and meet their physical and emotional needs.<sup>2</sup>
  - **State regulations for group care:** State regulations that cover all group homes, institutions, and transitional living placements prohibit discrimination based on sexual orientation.<sup>3</sup>
  - **Municipal/City Ordinances of Laws:** Some counties and cities in Pennsylvania have enacted local laws that do prohibit discrimination based on sexual orientation. For example, Philadelphia<sup>4</sup> and Pittsburgh<sup>5</sup> have protections against discrimination based on sexual orientation. You can check out [https://www.lgbtmap.org/equality\\_maps/profile\\_state/PA](https://www.lgbtmap.org/equality_maps/profile_state/PA) to find out which other counties or cities in Pennsylvania have similar protections.

## What should I do if I am being harassed, discriminated against, or treated badly because of my sexual orientation or gender identity?

- You deserve to be safe, and if you ever feel unsafe or are being harmed, you should get help immediately by calling your caseworker or his or her supervisor. If it is an emergency, you should call 911.
- If you are being treated badly or differently than other youth because of your LGBTQIA status, you should:
  - **Talk to your case worker, and go up their chain of command** if you are not getting a response.
  - **Talk to your lawyer.** Your lawyer’s job is to advocate for you and protect your interests. If you tell your lawyer about your concerns, they can help you file a grievance, advocate on your behalf to the county agency, raise the issue at your next court hearing, or ask for an earlier hearing. For more information about attorneys and court hearings, see Chapter 18: Lawyers, Court, and Case Planning.
  - **File a grievance.** Each county’s children and youth agency, as well as private providers of child welfare services, must have a grievance policy in place and must inform youth of the policy and how to file a grievance. The agency must assist youth with filing a grievance. For more information about grievances, see Chapter 17: Getting Your Voice Heard—Self-Advocacy/Grievance.
  - **If you live in a city or county with additional discrimination protections, you may also be able to file a complaint with your local government.** For example, youth in Philadelphia can file a complaint with the Philadelphia Commission on Human Relations for violations of the local nondiscrimination ordinance.

## Where can I go for more information or resources for LGBTQIA youth in foster care?

- Call your lawyer to ask for help.
- Call Lambda Legal at 212-809-8585.

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<sup>1</sup> 11 P.S. § 2633(1)–(3).

<sup>2</sup> 42 Pa.C.S.A. § 6351(a) (the court must order a disposition for all dependent youth that is “best suited to the safety, protection and physical, mental, and moral welfare of the child”).

<sup>3</sup> 55 Pa. Code § 3800.32(a) (“A child may not be discriminated against because of race, color, religious creed, disability, handicap, ancestry, sexual orientation, national origin, age or sex.”).

<sup>4</sup> Philadelphia, Pa., Code §§ 9-1102 to -1105.

<sup>5</sup> Allegheny Cty., Pa., Code § 215-32.

# Chapter 17: Getting Your Voice Heard

**Introduction:** Although it may not feel like it, when you are foster care, **you have the right to have your voice heard.** This Chapter gives you information and advice on steps you can take to get your voice heard when you believe your rights have been violated, you have been mistreated, you are not getting your needs met, or you feel you are not being heard on what should happen in your case or your future.

## What should I do if I think I am being abused or neglected?

- **If you are being abused, neglected, or you are in immediate danger, you can get help immediately. If you are being abused or neglected, please contact ChildLine.**
- By calling ChildLine, you are requesting that the county children and youth agency respond quickly to your concerns about abuse or neglect. ChildLine of Pennsylvania can be contacted at 800-932-0313. If you are in danger, you can also call 911.
- **Most of the information below about getting your voice heard is about situations where you are not in immediate danger.** The information below is to help you let people know and get a response when you believe your rights have been violated, you have been mistreated, or you are not getting your needs met.

## What are tips to help me get my message across when I have a concern or complaint?

- To make your message effective, it is not just about what you say, but how you say it. No matter what actions you take to get your voice heard, **here are a few tips on helping adults hear you:**
  - **Take time to cool down.** Adults—and anyone for that matter—are more likely to listen to you when you are calm and able to fully express yourself.
  - **Be polite.** Adults are more likely to listen to you when you express your concerns in a respectful and polite way. It is easy to feel helpless and out of control, but there are a few things that you can control. If you speak truthfully and straightforwardly, without using sarcasm, derogatory language, swearing, or name-calling, you will be better able to get your point across.
  - **Focus on the issue.** Try to focus on the issue that is your main concern, rather than getting sidetracked. A great way to help you focus is to talk through (or write down) what you want to say beforehand.
  - **Be specific.** Be clear and to the point. Try not to get caught up in telling long, detailed stories unless they are particularly relevant.
  - **Make a record of your attempts to have your voice heard:**
    - **Leave a message**—if you cannot reach the person, leave a voice message with your contact phone number even if you think they have it. Otherwise, the person will not know that you called.

- **Write a letter (or email)**—when you put your concerns in writing (and keep a copy), you have proof to show your attempts to be heard.
- **Get help from supporters.** Ask the trusted people in your life to talk things out with you. This could include a counselor, mentor, advocate, foster parent, friend, parent or teacher. They may be able to provide advice to you on what actions to take and good ideas on how to communicate your message.

**What are examples of actions to take if I do not feel like my voice has been heard and something is going wrong or my needs are not being met?**

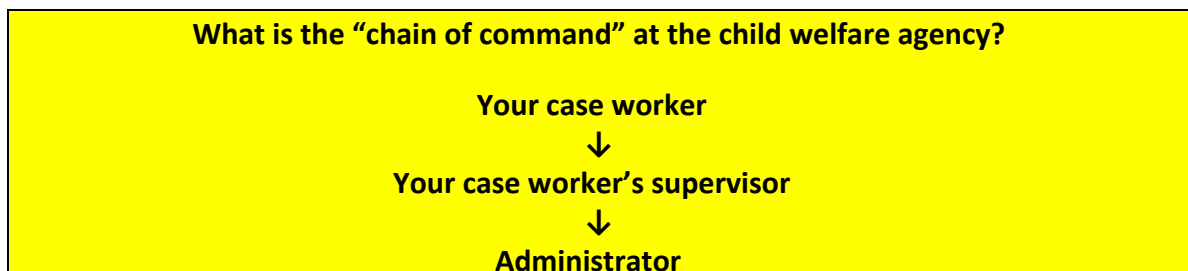
If you feel your case is not being handled properly, are dissatisfied with your current situation, or do not feel like people are listening to your wants and needs, there are certain steps you can take:

**1. Call your case worker.** Your social worker may not know there is a problem unless you tell them about it. Ask your social worker if they can help you make your situation better. Tell your social worker what you would like to see happen. Ask a trusted adult (school counselor, caseworker, etc.) to help you make the phone call if you need support. You can also talk to the judge when you go to court.

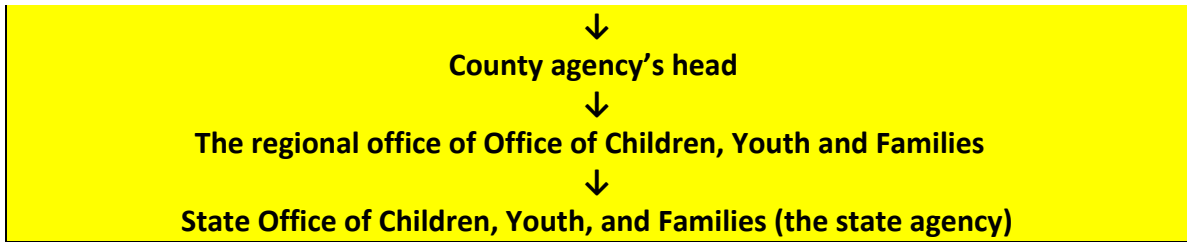
Sometimes you need to make many phone calls to accomplish your goal. For example, if your caseworker is not calling you back, you should call his or her supervisor and try to get help. This is called “going up the chain of command.” Writing letters is also a good way to advocate for yourself. Putting your thoughts in writing is a good way to be heard. **Concerns or requests that you put in writing are harder to ignore.**

**2. Go up the chain of command if you are not getting a response from your caseworker.** If your case worker is not returning your calls or responding to your concerns you can:

- **Explain your concerns calmly.** Explain your concerns to the supervisor and see if they have any ideas on how to make your situation better.
- **If you still do not feel like your voice is being heard:** go up the “chain of command”. In other words – call their boss, and then their “boss’s boss” and their “boss’s boss’s boss” until you talk to someone who can help you.







**3. Contact your lawyer or CASA:** In Pennsylvania, all youth in out-of-home care have a lawyer. You also may have a Court Appointed Special Advocate, or “CASA.” Your lawyer and your CASA are important advocates for you who can help make sure your concerns are heard and addressed. Tell your lawyer (and your CASA, if you have one) about any concerns you have about your current situation, and about any needs you have that aren’t being met. You can also tell them what you want for yourself (for example, where you want to live, what kind of services you want to receive, etc.). See Chapter 18 on Lawyers and Court for more information.

**4. Tell your Judge:** If you are in foster care, your case is reviewed in court at least every 6 months and have a right to be present and participate in your hearings.

- a. Youth should be present at and should participate in these hearings (especially older youth). This is where decisions about YOUR life are being made.
- b. If you feel like your needs are not being met or you are dissatisfied with your current situation, you can voice your concerns in court.
- c. The judge has the authority to make changes to your situation if he or she decides the changes are in your best interest.

**5. File a grievance:** If you are in out-of-home care, the children and youth agency, as well as any private provider agency involved in your case, must have a grievance process in place.

- a. When you go into a placement someone should explain to you how to file a grievance or complaint.
- b. If you don’t remember how this process works, contact your case worker (or the agency where they work) to find out how to begin the grievance process.  
For more on this see the section below.

**6. Join the Pennsylvania Youth Advisory Board.** The State Youth Advisory Board helps create positive change in the substitute care system. Youth who are in care or have been in care can become part of the regional or state YAB. Please see the YAB website at [www.independentlivingpa.org](http://www.independentlivingpa.org) for more information on contacts and meeting dates and times.

### What is a grievance?

- A grievance is a formal, written complaint.
- The law requires that county child welfare agencies and private agencies have a written policy for all youth in care to file a grievance if you feel something is wrong or you are being treated unfairly.<sup>1</sup>

- The grievance policy **must** include all of the protections in the Children in Foster Care Act (See APPENDIX A),<sup>2</sup> but you can also use the grievance procedure to address other complaints or concerns.
- The law also requires the agency to give you a written copy of the grievance policy when you enter care or a new placement, and to explain the policy to you in a way you can understand.<sup>3</sup>
- Both the county agency *and* the private provider agency (for example, your placement) must have a grievance procedure. You have a right to file a grievance with either agency, or with both.<sup>4</sup>

### How do I file a grievance?

- The exact process for filing a grievance may be different for different counties, agencies, and placements. The law requires that **all** grievance procedures must:
  - Be written in language you can understand and be explained to you
  - Allow you to file a grievance without fear of getting in trouble (or “retaliation”).<sup>5</sup>
- The state also has a list of “core components” of a grievance policy that all policies *should* have. Those core components explain that the grievance policy should:
  - **Be flexible.** This means that there should be lots of different ways that you can file a grievance, including phone calls, email, or a written letter. You should also be allowed to go to any adult you feel comfortable with to share your concern and explain that you want to file a grievance.
  - **Include a timeline for response.** This means that the policy should say how and when you will know that the agency received your grievance, and when you should expect a decision.
  - **Explain how a decision will be made.** A grievance policy should explain what process the agency will use to decide what to do about your concern. For example, the process might include a meeting of some sort to discuss your concern. The grievance procedure should describe the meeting (or other process), let you know how you can participate and who you can bring with you, and explain how your identity and concern can be kept confidential if necessary.
  - **Include a process for appeal.** The policy should explain how you can appeal a decision on your grievance to a higher authority or ask for reconsideration.
  - **Protect your confidentiality and protect you against retaliation.** The law protects both of these things, but it is also important that the grievance policy explain how they will be protected.<sup>6</sup>
- If you don’t know the process for filing a grievance with your particular agency or placement, **ASK your caseworker, Independent Living worker, or any other trusted adult for your specific grievance process and form.** We recommend asking about the grievance process and form BEFORE you need it so you will have it if you do need it in the future.

### Can I get help filing a grievance?

- **Yes.**
- Each county and provider should have a grievance policy that includes a list of resources to help you file a grievance.<sup>7</sup> The list should have names and contact information of specific people who can help you. You can also ask any adult you know and trust to help you. Some people who you could ask to help you include (but are not limited to):
  - parent, guardian, caregiver or supervisor
  - caseworker
  - therapist or counselor
  - teacher or other school staff
  - lawyer/attorney, or Guardian ad Litem
  - juvenile probation officer
  - judge
  - coach
  - CASA (Court Appointed Special Advocate)
- You are also allowed to file a grievance on your own—you don't *have* to ask an adult, but you should be able to if you want to.

### **Can I get in trouble for filing a grievance?**

- You cannot be punished for filing a grievance.<sup>8</sup>
- If you are, tell your lawyer, caseworker, and judge immediately.

### **What will happen after I file my grievance?**

Exactly what will happen depends on the specific grievance procedure that your county or agency uses, but a couple things should happen:

- **First**, your agency should let you know they received your grievance. Your county or placement's grievance process should explain how long they have after you file to let you know.
- **Second**, your agency will review your grievance and let you know how they have decided to respond to your concern. Your county or placement's grievance process should explain how long they have after you file a grievance to tell you their decision. Their decision is called a "resolution."<sup>9</sup>

### **What happens if I don't agree with the agency's resolution?**

- If you don't agree with the agency's resolution, find out if you can file an appeal.
- State guidance recommends that agencies include a process for reconsidering or appealing a decision, but the law doesn't require that they have an appeal process.<sup>10</sup> The letter or document you received telling you about the decision should have information about how to file an appeal.

- You can file an appeal on your own, or ask an adult you know and trust to help you.
- If there is not an appeal process, or if you still don't agree with the agency's resolution, you can talk to or write your county administrator, county agency's head, regional office, or state agency.
- You should tell your lawyer about the grievance, that you do not feel like it was resolved, and you would like help to have your concerns addressed.

**What happens if I get no response?**

- If no one responds to your grievance or to your appeal, let your lawyer, caseworker and judge know.
- If no one responds, don't give up! Talk to or write the head of the county child welfare agency, the regional office (contact information below), or state agency.

**Are there other ways to raise my concerns?**

**Yes.** Here are some other ways you can make a complaint or raise a concern:

- Ask your lawyer or caseworker if the county agency has a contact person or phone number for raising complaints. For example, Philadelphia DHS has the Commissioner's Action Response Office (CARO) that people can call with questions, concerns or complaints (you can contact CARO at 215-683-6000 or [dhscaro@phila.gov](mailto:dhscaro@phila.gov)).
- Contact the regional office for the State Child Welfare Agency for your county (contact information below).
- File a complaint with the Pennsylvania Department of State. You can access their complaint form here: <https://www.pals.pa.gov/#/page/filecomplaint>.

**Regional Offices Contact Info:**

Western Region: 412-565-2339 (serving the following counties: Allegheny, Armstrong, Beaver, Butler, Cameron, Clarion, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Potter, Venango, Warren, Washington, and Westmoreland)
Central Region: 717-772-7702 (serving the following counties: Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Somerset, Union, and York)
Northeast Region: 570-963-4376 (serving the following counties: Berks, Bradford, Carbon, Lackawanna, Luzerne, Monroe, Northampton, Pike, Schuylkill, Sullivan, Susquehanna, Tioga, Wayne, Wyoming)

Southeast Region: 215-560-2249 (serving the following counties: Bucks, Chester, Delaware, Montgomery, and Philadelphia)

State Agency (governing county child welfare agencies): Office of Children, Youth, and Families (OCYF) Helpline: 1-800-692-7462

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<sup>1</sup> 55 Pa. Code §§ 3130.88; 3680.48; 3800.31-33; *see also* Children in Foster Care Act, 11 P.S. 2631 *et seq.*

<sup>2</sup> 11 P.S. § 2635.

<sup>3</sup> 55 Pa. Code § 3130.88; 55 Pa. Code § 3680.48; 55 Pa. Code § 3800.31.

<sup>4</sup> Children in Foster Care Act (Act 119 of 2010), Office of Children, Youth and Families Bulletin, 3130-12-02, 3680-12-01, 3700-12-01, 3800-12-01 (July 30, 2012).

<sup>5</sup> 55 Pa. Code § 3130.88; 55 Pa. Code § 3680.48; 55 Pa. Code § 3800.31.

<sup>6</sup> Children in Foster Care Act (Act 119 of 2010), Office of Children, Youth and Families Bulletin, 3130-12-02, 3680-12-01, 3700-12-01, 3800-12-01, 9-10 (July 30, 2012).

<sup>7</sup> Children in Foster Care Act (Act 119 of 2010), Office of Children, Youth and Families Bulletin, 3130-12-02, 3680-12-01, 3700-12-01, 3800-12-01, 9 (July 30, 2012).

<sup>8</sup> 55 Pa. Code § 3130.88; 55 Pa. Code § 3680.48; 55 Pa. Code § 3800.31.

<sup>9</sup> Children in Foster Care Act (Act 119 of 2010), Office of Children, Youth and Families Bulletin, 3130-12-02, 3680-12-01, 3700-12-01, 3800-12-01, 9-10 (July 30, 2012).

<sup>10</sup> Children in Foster Care Act (Act 119 of 2010), Office of Children, Youth and Families Bulletin, 3130-12-02, 3680-12-01, 3700-12-01, 3800-12-01, 10 (July 30, 2012).

# CHAPTER 18: LAWYERS, COURT, AND CASE PLANNING

Introduction: To have a say in what happens in your case and your future, it is important that you be part of the meetings and discussions where important decisions are made. Court and case planning meetings are two of the most important places where big decisions are made. One of your champions and advocates is your lawyer. This chapter gives you information about your right to participate in your case planning meetings and in court. It also gives you information about your lawyer, his or her role, and tips for how to work with you lawyer to help achieve your goals.

## I. Your Lawyer

### Do I have a lawyer?

- YES.
- All youth in the dependency system have a lawyer who is appointed to represent them in court at no cost.<sup>1</sup>
- Sometimes your lawyer is called a Guardian ad Litem (GAL) or child advocate.
- Your lawyer represents you and is your advocate.
- Your lawyer does not work for the county child welfare agency or for your parent(s).

### What is my lawyer's role?

- Your lawyer works to help you get to permanency and family, to make sure your needs are met, and to make sure you get help in setting and meeting all your goals.
- Lawyers are “zealous advocates” for their clients. A zealous advocate is someone who is committed to you and dedicated to supporting you as a champion by using the law.
- Your lawyer may represent you in one of two ways. This depends on why you came into care.
  1. If you came into foster care because of abuse or neglect, your lawyer has the role of **Guardian ad Litem (GAL)**.<sup>2</sup> Abuse or neglect generally means that you were harmed or not taken care of properly. Your GAL should tell the court what he/she feels is in your best interest, but also should tell the court what you want to happen in your case.
    - If what you want and what your lawyer thinks is best for you is very different and in opposition, your lawyer may have what is called a “conflict” and can ask that another lawyer be appointed to represent you. If that is the case, you would have one lawyer representing what you want and one lawyer acting as a GAL and telling the judge what he/she thinks is in your best interest.<sup>3</sup>
  2. If you came into care because of not attending school (truancy), not following your parents' rules, or running away, then your lawyer is called **counsel**.<sup>4</sup> Your

lawyer should focus on representing what you want to happen in the case and following your direction after providing you advice and guidance.

- If you are not sure whether you have a GAL or counsel, call your lawyer and ask.

### **What should my lawyer be doing to represent me?**

- Here are some of the things that the law requires that your lawyer do when they are appointed to represent you in dependency court. Whether they are a GAL or counsel, your lawyer should:
  - Meet with you as soon as possible after they are appointed and then regularly as long as they are on the case.
  - Have access to your records just for the purpose of understanding your needs and to make sure you are getting what you need.
  - Participate in all of your court hearings and meetings.
  - Do any investigation necessary, and talk to witnesses and other people in your life to be able to represent you well in court.
  - Be told if there are plans to move your placement and have the opportunity to respond.
  - Make recommendations to the court about whether you are safe, the services you need, what should happen in your case, and your goals.
  - Explain the court proceedings to you in a way that you can understand.
  - Tell the court about what you want to happen in the case and present any evidence that supports what you want.<sup>5</sup>

### **What should I tell my lawyer?**

- You should tell your lawyer how you are doing in your placement and what kind of placement you want for the future—if you want to go home, be placed with a relative, or be adopted.
- You should tell your lawyer how things are going for you, if things are going well in school, if you are in need of medical care or counseling, if you are visiting with your sibling(s) and parents, and anything else that is important to you. Almost everything you tell your lawyer is confidential. Your lawyer will tell you when they cannot keep things confidential, and you should ask if you are not sure.
- You should tell your lawyer if you feel safe and have any concerns about your safety.
- Some lawyers are required to tell the children and youth agency if you report to them that you have been neglected or abused.<sup>6</sup>

### **What is the best way to communicate with my lawyer?**

- Meeting with your lawyer in person is good so you can get to know each other, but texting, talking on the phone, emailing, and even writing letters are good too.

- It is really important to let your lawyer know how you like to communicate and the best times to talk, meet, or text with you.
  - Let your lawyer know if:
    - You have a working telephone or device to communicate on.
    - Talking on the phone or meeting between 9 and 5 on weekdays does not work for you.
    - You like texting rather than phone calls.
    - There are times that are bad for you to talk or meet.
    - Other options like using social media are ways to contact you.
- Your lawyer wants to work with you and their job is to assist and represent you. They appreciate when you let them know the best ways to do this.

### **How do I find out who my lawyer is?**

- The Children in Foster Care Act requires that you are given the contact information of the key people involved in your case, including your lawyer. (You should also have the contact information for your court-appointed special advocate (CASA) if you have one, and members of your case planning team.)<sup>7</sup>
- Ask your county child welfare agency case worker if you do not know who your lawyer is. If you are not able to find this information, you can call Juvenile Law Center at 1-800-875- 8887. If you live in Allegheny County, you can call KidsVoice at 412-391-3100.

### **What do I do if I think my lawyer isn't doing their job?**

Your lawyer is appointed to help you and work for you. If you do not think your lawyer is doing their job, don't be afraid to let someone know.

- If you do not think your lawyer is doing their job, you should try to talk to them about your concerns.
- Make sure you leave messages and write letters to your lawyer to give them a chance to respond.
- If you still feel your lawyer is not doing their job, you should then contact their supervisor or boss.
- You can also tell the judge when you go to court. You should let them know what you think your lawyer is doing wrong or how they are not meeting your needs, such as if your lawyer is not returning your calls, not talking to you, or not telling the judge what you want.
- You can also file a complaint about your lawyer with the Disciplinary Board of the Supreme Court. You can get to the form and learn about the process at <https://www.padisciplinaryboard.org/for-the-public/file-complaint>.



## II. Courts and Hearings

### **What happens in court when my case is reviewed?**

- Once you enter the foster care system, you have court hearings at least once every six months.<sup>8</sup> These are called permanency reviews.
- At hearings, the judge should be making sure you are safe, your needs are met, and that work is being done so you can go back to your family or find family in another way like adoption or guardianship.<sup>9</sup>
- The goal of court is to help move your case along so you can leave the system and go to family, to make sure you are making progress in the goals you are setting for yourself, and to make sure you have support. If things are not happening that should or progress is not being made, court is a time to discuss these issues, and the judge can help make sure that actions are taken to improve the situation.
- Important decisions are made about your case in court, so it is important for you to be there so you know what is happening and so that your voice can be considered.

### **Should I go to court for my permanency review hearings?**

- YES.
- Pennsylvania court rules require that you be at your court hearings unless the judge excuses you.<sup>10</sup> This is because the hearings are about your life and important decisions are being made about your future. You should have a say and understand what is going on.
- You should always try to attend! If you are not there, you will not be able to give input on important decisions or correct mistakes.
- It is important for you to go. Court only happens once every three to six months. Court is still worth attending even though it can be boring and you may have to wait for your case to be heard. If you are always there, you can make sure you get what you need and that decisions about you are made with your involvement!

### **I want to go to court, but I need help to get there and want help to prepare. What should I do?**

- Your caseworker should help you arrange for transportation to court. You should contact your lawyer and let them know if you are not getting help with transportation.
- If you want to make sure you are present for all hearings, contact your lawyer before the hearing. Your lawyer will be able to ask the court to order your placement to transport you to the hearing.
- You should ask your lawyer and caseworker to help you prepare for court. Preparation could include explaining the process to you and helping you prepare to say or write something to the judge.

- If it would make you feel more comfortable to have someone you trust or who is a support to you attend court, ask your caseworker and lawyer. This is something that can be arranged.

### **What should the judge be asking me about when I go to court?**

- The judge in your case will want to talk with you about many different issues so they have your views on what is happening in your case. For example, the judge will want to hear from you about how you are doing, if you are safe, and if you need anything.
- Specifically, the law does require that the judge ask you about the following:
  - How you feel about your permanency and transition plan goals and services.<sup>11</sup>
  - If your permanency plan is APPLA, what you think about this plan and what permanency plan you would like to have.<sup>12</sup>
  - If you are participating in activities in the community and at school on a regular basis, any barriers to participation that you are facing.<sup>13</sup>
- If there are things that you want the judge in your case to know about you, let your lawyer know so they can help you share that information. Your judge's role is to make sure the law is followed and that you get what you need. Your voice and opinions are important to this process.

### **Are there ways that I can share my views in court other than speaking at the hearing?**

- There is a lot your lawyer, caseworker, and judge can do to make it easier for you to speak in court and make you feel comfortable in general.
  - You could speak first or have a specific time that you know you can share your views.
  - You can have your lawyer ask you specific questions that you are prepared to answer.
  - You can have a support person in the room.
- If you would rather not speak in the courtroom or are not ready to, here are some ideas for how you can get your views heard:
  - Ask your lawyer to speak for you.
  - Write a letter to the judge.
  - Ask to speak to the judge in his or her chambers (office).
  - Always have notes prepared of what you want to cover in court for each hearing.
- \*\*When you speak to the judge in his or her chambers or write a letter, that information may be shared with the other people involved in your case, so make sure you understand who will know about the information you share.

### **What happens if I do not like the decisions that the judge makes in court?**

- When a judge makes a decision in your case that you do not like or agree with, you can ask your attorney to appeal it. Appealing a decision means that you are saying that you

disagree with it and are asking the judge or a court above your judge to change the decision.

- One of the duties of your lawyer is to provide you information about the opportunity to appeal and give you advice on whether you can appeal a decision and whether it is a good idea to do so.
- Talk to your lawyer when you do not agree with a decision and ask him or her to talk with you about taking an appeal.
- One of the reasons it is important to attend your court hearings is so you can have input and also so that changes can happen in your case. There is an opportunity for changes to be made in your case every time you go to court. If you are not there, these changes may not happen.

**As I get older, what are some of the most important issues I should raise when I go to court?**

- The beauty of going to court is that you can highlight any issue that is most important to you based on your needs and goals.
- Here are a few issues that seem especially important to youth as they get older and that are worth raising in court and sharing your views on:
  - Are you being notified of and provided support to attend/participate in your transition/discharge planning meetings?
  - Do the goals in your transition to adulthood plan fit your needs and strengths, or do you need help picking new ones?
  - Are you getting the transition to adulthood services that are helping you achieve your goals, or do you need more or different services?
  - Are you still getting help with permanency and connecting with your family and brothers and sisters?
  - Are you getting help with being eligible for extended foster care if you want to stay in care?
  - Are you getting help developing a good transition/discharge plan that you feel meets your needs and is specific and realistic, especially as it relates to your housing plan?
  - Do you feel your concerns and what you want included in your transition/discharge plan are being included?
  - Are there things that you are worried about as you plan for the transition from foster care that you want help with?

**Here are a few tools that can help you prepare for court:**

- YOUTH EMPOWERMENT CARD: YOUTH RIGHTS IN PA COURTS, JUVENILE LAW CENTER, <https://jlc.org/sites/default/files/attachments/2018-02/YFC-CourtRightsCard-PRINT-FINALv2.pdf>.

- YOUTH-DEVELOPED DISCHARGE HEARING FORM, JUVENILE LAW CENTER, <https://jlc.org/sites/default/files/attachments/2018-02/Youth-Developed%20Discharge%20Hearing%20Form.pdf>.

### **What is a Court Appointed Special Advocate (CASA)?**

- A CASA is someone who can be an advocate for you in your case and works to make sure your needs are met.
- A court can appoint a CASA to a case, but not everyone has a CASA.<sup>14</sup>
- If you have a CASA, they will meet with you, gather information about you, and make recommendations to the court about what you need.
- CASAs can be very helpful in your case and are great advocates and champions for youth.
- A CASA has a different role than your lawyer but is another great support to you and an advocate for you in court and case planning meetings.

### **III. Case Planning**

#### **What are cases plans?**

- Case plans generally are plans that are created for and with you and your family when you come into the foster care system. A case plan should include information about the issues that need to be addressed so you can be with your family, services you need to meet your needs, and goals that your family set and that you set on your own.<sup>15</sup>
- Your case plan should include your permanency goal and what is being done to help you achieve the goal.
- Once you turn age 14, your case plan should also include information about your transition to adulthood goals and the services you will receive to achieve those goals.<sup>16</sup>
- Your transition/discharge plan should also be included in your case plan.
- Case plans sometimes are called by different names like: permanency plans, family service plans, and individual service plans. There may be some differences in these plans, but they should generally cover the same issues. Your county child welfare agency must develop a case plan for and with you, but other agencies and programs may also have case plans.

#### **What is a case planning meeting and why should I attend?**

- Case planning meetings are where goals and the progress needed to meet goals are set and talked about. What happens in the case and the services you receive depend on what is in the case plan, so it is important for you to be part of the process so you can voice your views and ideas.
- Case planning meetings happen at least once every six months<sup>17</sup> and provide you an opportunity to advocate for yourself and your family. Like court, they are a place where

decisions are made, so you should be there if you want to have a role in making these decisions.

### **Do I have a right to participate in my case planning meetings?**

- Yes.
- You must be given the opportunity to participate in your case planning meetings.<sup>18</sup> It should be documented in the case plan itself that you were consulted in the development of your case plan once you turn age 14.<sup>19</sup>
- If you are age 14 or older, you should be given the opportunity to sign your case plan.<sup>20</sup>
- You should be given notice of your case planning meetings so you can make plans to attend, or so you have time to ask for the meeting to be rescheduled if you cannot attend because of another obligation. Talk to your caseworker and lawyer if you are having a hard time making arrangements to participate in your case planning meeting. They should help you figure things out so you can attend and be ready to participate.

### **Can I invite support people or people who are important to me to a case planning meeting?**

- Yes.
- You should always let your case planning team know who is important in your life and who you would like to be part of planning so they can be invited to the case planning meeting. If the team thinks someone should not be invited, they should tell you why.
- At any age and at any time, you can suggest that people be invited to your case planning meeting. Beginning at age 14, you have a right to involve two individuals in case planning who are not a foster parent or part of the casework staff, and one of these individuals can be an advocate on issues related to your participation in activities.<sup>21</sup>

### **Should I get a list of my rights as part of the case planning process?**

- Yes.
- Federal law requires that all youth age 14 and older get a list of their rights at each case planning meeting and that it be explained in an age-appropriate way. This should be documented in the case plan.<sup>22</sup>
- State law—the Children in Foster Care Act—requires that all youth be provided with a list of their rights.<sup>23</sup>

## What if I do not agree with what is put in my case plan for a goal or service?

- It is important for you to go to your case planning meeting so that you can have a say in what is in the plan. The plan is where you set goals and plans for services to achieve the goals. If you want a service—like help preparing and getting a job or transportation to visit with a brother or sister—you want to make sure it is in your case plan to be sure that it will happen.
- You can file a grievance if you do not agree with something in your case plan.
- You can raise the issue with your judge in court.
- You can appeal what you do not agree with in the case plan. Appeal means you do not agree and want something changed. You appeal what is in your case plan by taking an appeal through the Office of Hearings and Appeals of the Department of Human Services.<sup>24</sup> You will need help to file an appeal with the Office of Hearings and Appeals. Please ask your lawyer for help to do this.

### TOP FIVE REASONS TO GO TO YOUR PERMANENCY REVIEW HEARINGS

1. Your voice matters.
2. You have a right to be there and speak.
3. The hearing is about you, so you want to make sure everyone gets all information correct.
4. It is a place where you are able to tell people about what is going well in your life or what is going wrong and what you want to change.
5. The judge has the final word on what happens in your case. The judge can make sure things happen and that problems are fixed.

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<sup>1</sup> Pa.R.J.C.P. 1151.

<sup>2</sup> Pa.R.J.C.P. 1151(A).

<sup>3</sup> Pa.R.J.C.P. 1151 cmt. (“The guardian *ad litem* for the child may move the court for appointment as legal counsel and assignment of a separate guardian *ad litem* when, for example, the information that the guardian *ad litem* possesses gives rise to the conflict and can be used to the detriment of the child.”).

<sup>4</sup> Pa.R.J.C.P. 1151(B).

<sup>5</sup> 42 Pa.C.S.A. § 6311(b); Pa.R.J.C.P. 1154.

<sup>6</sup> 23 Pa.C.S.A. § 6311(a)(14) (Mandated reporters include “[a]n attorney affiliated with an agency, institution, organization or other entity, including a school or regularly established religious organization that is responsible for the care, supervision, guidance or control of children.”).

<sup>7</sup> 11 P.S. § 2633(11).

<sup>8</sup> Pa.R.J.C.P. 1608(A).

<sup>9</sup> Pa.R.J.C.P. 1608(D).

<sup>10</sup> Pa.R.J.C.P. 1128(A)–(B)(1) (All parties, including the dependent child, “shall be present at any proceeding” unless “good cause [is] shown.”).

<sup>11</sup> 42 Pa.C.S.A. § 6351(e)(1) (The court should consult with the child in an age-appropriate manner regarding the proposed permanency and transition plans.).

<sup>12</sup> Pa.R.J.C.P. 1608(D)(2)(b) (Before approving the plan of APPLA, the judge must “ask the child about the child’s desired permanency outcome.”).

<sup>13</sup> Pa.R.J.C.P. 1608(D)(1)(p) (The judge must make findings as to “whether sufficient steps have been taken by the county agency to ensure the child has been provided regular, ongoing opportunities to engage in age-appropriate

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or developmentally-appropriate activities, including: (i) consulting the child in an age-appropriate or developmentally-appropriate manner about the opportunities to participate in activities; and (ii) identifying and addressing any barriers to participation.”).

<sup>14</sup> 42 Pa.C.S.A. § 6342(a).

<sup>15</sup> 55 Pa. Code § 3130.61 (family service plans).

<sup>16</sup> 42 U.S.C.A. § 675(1)(D) (Beginning at age 14, the case plan must contain “a written description of the programs and services which will help such child prepare for the transition from foster care to a successful adulthood.”).

<sup>17</sup> 55 Pa. Code § 3130.63(a) (review of family service plans).

<sup>18</sup> 55 Pa. Code § 3130.61(d) (“The county agency shall provide family members, *including the child*, their representatives and service providers, the opportunity to participate in the development and amendment of the service plan . . . .”) (emphasis added).

<sup>19</sup> 42 U.S.C.S. § 675(5)(C)(iv).

<sup>20</sup> 55 Pa. Code § 3130.61(c).

<sup>21</sup> 42 U.S.C.S. § 675(5)(C)(iv).

<sup>22</sup> 42 U.S.C.S. § 675a(b) (Beginning at age 14, youth must be provided a list of their rights as part of the case-planning process. The list of rights must be part of the case plan and should address “education, health, visitation, and court participation,” the right to discharge documents, and “the right to stay safe and avoid exploitation[.]” The case plan must include a signed acknowledgement that the list of rights has been received and “explained to the child in an age-appropriate way.”).

<sup>23</sup> 11 P.S. § 2635(a).

<sup>24</sup> Children, like parents, have a right to challenge a service, benefit, or procedure under state and federal child welfare laws. Children, like parents, have a due process right to appeal through the Office of Hearings and Appeals. See 42 U.S.C.A. § 671(a)(12) (The state’s Title IV-E plan must “provide[] for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness[.]” (citation omitted)); 55 Pa. Code § 3130.6 (parent appeals and fair hearings); PENNSYLVANIA DEPARTMENT OF HUMAN SERVICES, BUREAU OF HEARING AND APPEALS, <https://www.dhs.pa.gov/contact/DHS-Offices/Pages/OA-Bureau%20of%20Hearings%20and%20Appeals.aspx> (the issues under the Bureau’s jurisdiction includes the “[e]stablishment of family service plans for persons receiving services through the local children and youth agency.”).