

Education Transition Plans for Children in Foster Care

by Kristin Kelly

Federal law requires child welfare agencies to develop transition plans for children in foster care to prepare for them for adulthood. These plans must address education goals.

Education agencies should be cooperating with these plans and creating education-based transition plans for eligible youth. Unfortunately, often these plans are not coordinated to ensure a child's educational needs are being met. This Q&A:

- explains the federal requirements for transition planning for the child welfare and education agencies;
- suggests ways for agencies to collaborate to improve education outcomes; and
- provides suggestions for advocates about how to ensure youth's rights are protected.

Q&A What planning is required of the child welfare agency for children likely to remain in care until age 18?

Recognizing the need for improved planning and services for youth transitioning from foster care, the Chafee Foster Care Independence Act (FCIA) and the Social Security Act require the child welfare agency to include as part of the case plan for children age 16 and older a "written description of the programs and services which will help such a child prepare for the transition from foster care to independent living."

This plan, often referred to as the "independent living plan" (ILP), should be created closely with the youth and should include at least information related to the youth's education, physical and mental health care, and housing. It should also address efforts the agency is making

for the youth to develop permanent relationships with caring adults and relatives, including siblings. The ILP should detail the services the youth needs to prepare for adulthood, including daily living activities and an understanding of community resources and public benefits. Furthermore, the plan should identify outcomes and timeframes, as well as the specific individual or agency responsible for the child completing each element of the ILP.

Q&A What is the Chafee Foster Care Independence Program (Chafee Program) and how can it assist youth transition to independence?

The Chafee Program identifies youth who are likely to remain in foster care and helps them:

- transition out of the system successfully by obtaining education and services for employment;
- prepare for postsecondary education;
- obtain personal and emotional support; and
- obtain life-skills education and support.

States have wide flexibility in creating their state program and determining eligibility, but common elements of programs include:

- assistance obtaining a high school diploma or GED;
- career exploration, training, job placement, retention;
- training in daily living skills, including finances;
- substance abuse prevention;

- preventive health activities;
- education, training and employment services;
- postsecondary training and education; and
- mentoring and positive interactions with adults.

Because funds allocated for Chafee services are so low, not all potentially eligible youth receive these services. For that reason, it is important to collaborate with other agencies that may also provide transition services.

Q&A Must the agency only develop an ILP for those youth who participate in the state's Chafee Program?

No. Federal guidance makes clear that the state must develop and implement a case plan that, for children age 16 and older, identifies those programs and services that will be provided to help the youth transition from foster care to independence. While the Chafee Program is a funding resource for state independent living programs, the agency's ILP requirements must be met for all children age 16 and older, regardless of a child's eligibility for or involvement in the Chafee program or the child's permanency plan.

Q&A What planning is required of the child welfare agency for children 90 days before exiting care?

One way the Fostering Connections Act makes significant strides toward improving outcomes for older youth in care is by requiring a "transition plan." This requirement should improve practice by creating the impetus to plan early so that acceptable

transition plans can be developed and by increasing accountability by developing standards for acceptable discharge plans.

As of October 7, 2008, the child welfare agency must develop a “transition plan” within the 90-day period before a youth is discharged from care. The plan must be developed under the direction of the child

other unstable living situations where their needs are not met.

The court must ensure “transition planning” elements, such as referral to a homeless shelter and the welfare office, are never acceptable. Courts and advocates must ensure the plans are thorough and individualized and that youth are not discharged from care without being

should be developing detailed, individualized ILPs at the direction of the youth beginning when the youth is at least age 16, if not before.

Only when these two plans are viewed as steps in the process towards transitioning to adulthood will either fulfill their true purpose. The child welfare agency must actively engage and empower youth throughout the transition planning process, and include all individuals who may provide insight or support, including teachers, guidance counselors, or other education staff.

. . . the court can play a critical role ensuring the transition plans are developed at the direction of the child, and that they represent the goals and wishes of youth . . .

with the child’s caseworker or other child welfare agency staff, along with other “representatives of the child” (including the child’s attorney, guardian ad litem, court appointed special advocate, mentor, teacher, foster parent, relative, or any other individuals the child requests). The plan must be personalized and directed by the child. It must include specific options for housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services.

Q&A Does the court have a role in the transition plan required under Fostering Connections?

Yes. Because this transition plan is required of the child welfare agency as part of its case review requirements, the development and presentation of this plan must be integrated into permanency review hearings; like case plans, this should occur at least every six months.

Involving courts in developing and reviewing transition plans is essential to ensure accountability and, more importantly, prevent youth who truly need services from falling through the cracks. This provision helps keep youth from exiting the child welfare system to shelters and

able to transition successfully to independence.

Also, the court can play a critical role ensuring the transition plans are developed at the direction of the child, and that they represent the goals and wishes of youth by requiring the youth’s presence at court. Under the Child and Family Services Improvement Act of 2006, courts must now “consult in an age appropriate manner” with youth at any permanency hearing. This includes any hearing that will address the youth’s transition from foster care to independence and the youth’s proposed permanency or transition plan.

While youth presence and involvement at court is important throughout the life of the case, there is no more important hearing for a youth than the one where plans for their futures outside the system are made and the jurisdiction of the court will end.

Q&A How do the independent living plan and 90-day transition plan relate?

Although the new 90-day transition plan is a key service for youth to ensure they have all necessary services and supports before transitioning from care, this plan serves primarily as a final discharge plan. The child welfare agency

Q&A What planning is required by the education agency for children in special education who are age 16?

For children in foster care receiving special education services, an additional transition plan is required. Under the Individuals with Disabilities in Education Act (IDEA), schools must develop Individualized Education Programs (IEPs) for all students receiving special education services. The IEP is a written plan for each child that is developed, reviewed, and revised with a team of individuals. It focuses on providing the services a student needs to achieve education goals.

Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter, the IEP must include:

- measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
- transition services (including courses of study) to help the child reach those goals.

Unfortunately, even though these IEP transition goals are often similar and overlap with goals identified by child welfare in ILPs and transition plans, the child welfare agency is rarely aware of or

involved in this process. Lack of coordination between the school and the child welfare agency can result in IL plans, child welfare transition plans, and school transition plans that duplicate services or fail to leverage fully the resources of both systems.

Q&A What types of planning and services should be included in the IEP transition plan?

Recognizing the poor education outcomes of children transitioning out of the special education system, the 2004 IDEA Regulations added more protections for youth by defining and clarifying the required “transition services.” The plan must be part of “a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.”

Further, the plan should be based on the child’s needs, accounting for the child’s strengths, preferences, challenges, and interests and build on them to achieve a post-school goal. For example:

- *For a developmentally delayed youth*, training in the activities of daily living, like hygiene, home management, and getting around on public transportation could be appropriate goals in a transition plan that will lead to a larger goal of enabling the youth to live semi-independently after graduation.
- *For a youth with behavioral health needs*, the transition plan may focus on developing the skills and academic credentials to enter college, while also provid-

Education Transition Plan Resources

For information about:

- **the child welfare independent living plan and the Chafee Program**, visit the National Child Welfare Resource Center for Youth Development (www.nrcys.ou.edu/yd/).
- **how the Fostering Connections Act relates to older youth**, see the Frequently Asked Questions Guide published by the National Foster Care Coalition (www.nationalfostercare.org/pdfs/NFCC-FAQ-olderyouth-2009.pdf).
- **the transition plan required under the IDEA**, see the National Association of State Directors of Special Education (NASDSE) National Community of Practice on Transition (www.sharedwork.org) and the Education Law Center – PA (www.elc-pa.org).

If you have a comment or question about education planning in transition plans and agency coordination, contact Kristin Kelly, kellyk@staff.abanet.org.

ing services to help the youth address his anger appropriately in social and work settings. Some of these goals and the services to achieve them should overlap with the services provided in the IL plan, making coordination important.

Finally, the plan should include required instruction, related services, community experiences, employment and other post-school adult living objectives, daily living skills objectives, and provision of a functional vocational evaluation.

Q&A Who should be involved in the IEP transition planning process?

The IDEA now requires that for transition planning youth must be invited to attend IEP meetings. If they are not able to come, the education agency must “take other steps to ensure the child’s preferences and interests are considered.” As such, like the plans required by the child welfare agency, the education plan also requires that youth are actively engaged and empowered in their

transition planning.

In addition to the youth and the required members of the IEP team from the school, the IDEA also provides that, at the discretion of the education agency or parent, other individuals with knowledge or special expertise about the child, including related services personnel, should be included in IEP meetings. For children in foster care, it is critical that those already involved in a youth’s ILP and transition planning, including caseworkers, attorneys or GALs, CASAs, relatives of the child, and others, be consulted about a child’s IEP.

Note: While many individuals help develop a child’s IEP, only the child’s special education decision maker can approve the IEP. Therefore, the education decision maker should be clearly identified and actively engaged throughout the process. For more on this topic, see the Legal Center for Foster Care and Education’s special education decision-making series, available at: www.abanet.org/child/education/publications/specialeducation.html.

Q&A What should the education and child welfare agency do to prepare youth in foster care to transition to adulthood?

Due to the poor outcomes of children transitioning from the special education and child welfare systems, federal laws have been enacted to require the education and child welfare agencies to develop detailed and individualized plans to help youth with the transition.

Each agency must provide services to ensure a smooth transition to adulthood. However, often these plans are not coordinated. To ensure that youth in foster care are prepared and receive services needed to succeed, the education and child welfare agencies must work together to integrate these plans. The child welfare agency should consult education staff about youths' ILP and transition plan. For youth in foster care receiving special education services, the education agency should consult with child welfare staff in developing and implementing an IEP transition plan. Coordination ensures not only that students will receive the rights and protections they are entitled to, but also that the agencies will not duplicate services they are required to provide, improving efficiency for all involved. Finally, it is critical that both agencies actively empower youth throughout the planning.

Q&A What can advocates do to ensure that youth are receiving the rights and services they need?

Each of the required transition plans creates an important tool for advocates. These plans provide an opportunity for advocates to enforce the rights of youth by:

- creating an educational and learning environment in school and in child welfare programming

where youth in care are expected to succeed and flourish and providing them tools and supports to do so;

- providing youth as many opportunities as possible to see a positive future through encouragement and the exposure to role models and education advocates;
- participating in the development of all plans, and ensuring they are detailed and based on the needs of the client;
- ensuring all plans actively engage and empower youth;
- encouraging both the child welfare agency and education agency to engage the other in developing the plans, especially relating to education outcomes;
- taking part in systemic advocacy to create a structure and policies that require the child welfare agency and schools to collaborate;
- ensuring the federal requirement that findings be made regarding the services needed to transition to independence is followed and findings are sufficiently detailed to gauge agency compliance;
- advocating that presentation and approval of the child welfare ILP be required at all court hearings

for youth 16 and older, and the transition plan at least 90 days before a child's discharge;

- advocating for youth throughout the IEP process, and holding the education agency accountable for developing and implementing the transition plan, using the administrative review process when necessary.

Q&A Where can I find more resources on the federal transition plans for children in foster care and those in special education?

The Legal Center for Foster Care and Education plans to release another article about the federal requirements related to the case plan independent living plan, the Fostering Connections 90-day transition plan, and the IDEA transition plan. This article will highlight jurisdictions that promote best practices, and suggest practice tips for advocates.

Kristin Kelly, JD, is a staff attorney with the Legal Center for Foster Care and Education (www.abanet.org/child/education), a project of the ABA Center on Children and the Law, Washington, DC.

New in Print



Educating Children without Housing: A Primer on Legal Requirements and Implementation Strategies for Educators, Advocates and Policymakers, 3d ed.

by *Barbara J. Duffield, Laurene M. Heybach & Patricia F. Julianelle*

This updated edition provides innovative strategies to ensure the education rights of children and youth experiencing homelessness.

It includes new sections on: creating access to early childhood education opportunities; the Head Start Act; the Individuals with Disabilities Education Act; the Fostering Connections to Success and Increasing Adoptions Act; and financial aid and college access and support programs.

This edition contains strategies to help communities exceed compliance and move toward greater commitment to the law. It includes a new section on collaborating with community agencies, and a directory of resources for educators, advocates, and policymakers.

\$14.95. Order from the ABA Web Store, www.abanet.org/abastore (PC: 4180015).