
DYER V. CIF: THE RIGHT OF FOSTER YOUTH TO EQUAL PARTICIPATION IN INTERSCHOLASTIC SPORTS

Background

Children who live in foster care are all too frequently moved from one placement to another. Frequent placement changes often result in school changes, making it more difficult for foster youth to access educational opportunities. In recognition of these challenges, the California Legislature has enacted numerous laws entitling foster youth to immediate and equal access to all programs available to other students.

The California Interscholastic Federation (CIF) is the agency responsible for regulating high school sports in California. The CIF's bylaws do not allow foster youth transferring schools to be immediately eligible to participate in sports. Instead, they require foster youth transferring to a new school to overcome procedural hurdles, including mandatory paperwork and delays, not required of youth living with their families. These hurdles must be overcome before they are eligible to participate in interscholastic sports. This unequal treatment forces foster youth to miss portions of sports seasons, discourages participation, and can result in retroactive ineligibility.

Dalton Dyer v. California Interscholastic Federation

Dalton Dyer is an 11th grade student who has been in foster care since birth. The summer after 10th grade he was moved to Auburn, California and enrolled in Placer High School, where he tried out for the football team. Placer's Athletic Director treated Dalton the same way he treats children living with their immediate family in determining whether Dalton was eligible to play on the team, which did not require him to submit any paperwork to the CIF. Following the self-policing CIF bylaws applicable to such students, he concluded that Dalton was eligible to play.

Five games into the season, however, a coach from an opposing team made inquiries with the CIF into Dalton's eligibility after reading an article about Dalton in the newspaper. After an investigation, the CIF held Dalton retroactively ineligible because Placer High had not complied with the extra procedures required of foster youth transfer students. Placer's football team was forced to forfeit league wins, which disqualified them from the playoffs. Dalton, believing the CIF's bylaws to be against California law, challenged the CIF's decision in Superior Court in Alameda County, where CIF is headquartered. The National Center for Youth Law represented Dalton in his action.

Judgment and Order

On November 24, 2008, the Alameda County Superior Court held that the CIF's bylaws violate numerous California laws. In a written decision entered the next day, the Court explained that the bylaws violate the right of foster youth "to have fair and equal access to all available services, placement, care, treatment and benefits." California Welfare & Institution Code §16001.9. The Court also found that the bylaws violate numerous provisions of the Education Code as amended by AB 490, as "[t]he main purpose of AB 490 was to ensure that foster youth

have the same access to educational and extracurricular opportunities as other pupils.” *Dyer v. CIF* Order at 6.

In addition, the Court held that the CIF’s bylaws, which treat foster youth differently than similarly situated youth living with their immediate family, violate California’s Equal Protection Clause. The Superior Court found that there was no rational reason for the CIF to subject foster youth to extra procedural requirements given that the stated purpose of the bylaws was to deter students from transferring schools for athletic reasons. *Dyer v. CIF* Order at 8. This concern is irrational given that foster youth can only move pursuant to a decision by a child welfare worker or juvenile court.

Effects of the Decision

The immediate effect of the Court’s judgment was to restore Dalton’s eligibility for the season’s first five games of the season and overturn the forfeitures. Placer High went to the playoffs for the first time in eight years. They have now won two Sac-Joaquin Section Division IV playoff games, and will compete in the championship game for the first time since 1981.

The more lasting effects of this case will be felt throughout California, as foster youth athletes are afforded fair and equal treatment by the CIF. Barring a successful appeal, the CIF must change its bylaws to ensure foster youth are held to the same eligibility requirements as youth living with their families. Foster youth will no longer be required to file extra paperwork or apply for hardship waivers.

For many foster youth, a sports team can provide an important social community in an otherwise unfamiliar school. Interscholastic athletics can also provide an incentive to continue succeeding in school. In standing up for his rights, Dalton ensured thousands of foster youth have equal and fair access to these opportunities.

The National Center for Youth Law, in partnership with Placer County Foster Youth Services and other stakeholders, intends to develop a plan to educate school administrators, child welfare, and foster youth and their families about this important decision and how they can help ensure that foster youth have equal access to sports and other extracurricular activities.