



CALIFORNIA LEGISLATION RELATED TO EDUCATION OF WARDS AND DEPENDENTS

| AGENCY | DUTIES | REFERENCE |
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| <p>ALL EDUCATORS, PLACING AGENCIES, CARE PROVIDERS, ADVOCATES AND JUVENILE COURTS</p> | <p>LEGISLATIVE INTENT: Legislature intends for educators, placing agencies, care providers, advocates and juvenile courts to work together on behalf of foster children to ensure a meaningful opportunity to meet state academic achievement standards, stable school placements, placement in the least restrictive educational programs, and access to the academic resources, services and extracurricular and enrichment activities available to all students. All educational and school placement decisions must be based on the best interests of the child.</p> <p>RESPONSIBILITY: All educational and school placement decisions for children placed in group homes or foster family homes shall be made to ensure that the child is placed in the least restrictive educational programs and has access to academic resources, services, and extracurricular and enrichment activities that are available to all students. In all instances, educational and school placement decisions shall be based on the best interests of the child.</p> <p>PREFERENCE FOR REGULAR PUBLIC SCHOOL PLACEMENT: A student placed in a group home or foster home shall attend programs operated by the local educational agency, unless: 1) the student has an IEP requiring another educational placement, or 2) The person holding right to make educational decisions determines that it is in the best interest of student to be placed in another educational program, or that the student continue in his or her school of origin. (For other exceptions, see “Local Educational Agency”.)</p> | <p>Education Code §48850(a); Welfare & Institutions Code §16000(b)</p> <p>Education Code §48853(g); Welfare & Institutions Code §§361(a), 726(b)</p> <p>Education Code §48853</p> |
| <p>STATE SUPERINTENDENT</p> | <p>PROVIDE LIST OF LCIS: The superintendent shall give each county office a current list of licensed children’s institutions (LCI) in that county at least biannually.</p> <p>RESPONSIBILITY OVER NONPUBLIC SCHOOL (NPS) PLACEMENTS: Prior to certification of a NPS, superintendent shall conduct an onsite review of facility and program. Superintendent shall conduct additional onsite reviews within four years of certification effective date, unless superintendent conditionally certifies school, or superintendent receives formal complaint, in which case superintendent shall conduct onsite review at least annually. Superintendent must review certification of each nonpublic on an annual basis. Review may include an onsite review. Superintendent may monitor w/o notice when substantial reason to believe immediate danger to child. NPS only required to have one full-time credentialed teacher. NPS that employs persons with an emergency credential shall document efforts of recruiting appropriately credentialed, licensed, or registered personnel as a condition of renewing certification. The superintendent may revoke or suspend certification for any of several reasons.</p> | <p>Education Code §56156(d)</p> <p>Education Code §56366.1(d),(g),(h), (k)(3)(4); §56366.4</p> |

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| <p>COUNTY OFFICE OF EDUCATION</p> | <p>PROVIDE APPROPRIATE EDUCATION: County office must submit to superintendent a county wide plan which ensures that all special education students have access to appropriate special education programs and services.</p> <p>RESPONSIBILITY OVER JUVENILE COURT SCHOOLS: The county board of education shall provide for the administration and operation of juvenile court schools by the county superintendent of schools or by contract with the respective governing boards of the elementary high school or unified school district in which the juvenile court school is located.</p> <p>MAINTAIN LIST OF LCIS/NOTIFICATION TO LEA & SELPA: County office must maintain current list of LCI's and must notify each district and SELPA of the names of LCI's located in their region; county office to notify each LCI of the appropriate person to contact regarding the youth.</p> <p>EDUCATION OPTIONS: County office must make available to placing agency information on education options for children residing in LCI's.</p> | <p>Education Code §56140</p> <p>Education Code §48645.2</p> <p>Education Code §56156(d)</p> <p>Education Code §48850(b)</p> |
| <p>SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)</p> | <p>PROVIDE APPROPRIATE EDUCATION: Each SELPA is responsible for providing appropriate education to youth residing in LCI's & foster homes located in their region</p> <p>EDUCATION OPTIONS: Each SELPA shall provide the court or other placing agency with information about the availability of appropriate public or nonpublic special education programs in the area where the residential facility is located.</p> <p>RESPONSIBILITY WHEN TRANSFER PROCEDURES NOT ADHERED TO: At least 10 days prior to discharge, the placing agency must notify, in writing, current LEA & receiving SELPA of the impending discharge; give receiving SELPA a copy of IEP; identify person representing child's educational interests; and provide other relevant information that will be useful in implementing the child's IEP. <u>SELPA shall document instances where these procedures are not being adhered to and report these instances to the superintendent.</u></p> <p>EVALUATE NPS PLACEMENTS: Each local plan shall describe a process for evaluating NPS placements, including whether student is making progress, & ensure that all requirements of IEP program are being met.</p> | <p>Education Code §56156.4</p> <p>Government Code §7579(a)</p> <p>Government Code §7579.1(c)</p> <p>Education Code §56205(c)</p> |

LOCAL EDUCATION AGENCY

The Legislature finds and declares that the mobility of students in foster care often disrupts their educational experience. The legislature also finds that efficient transfer of student records is a critical factor in the swift placement of foster children in educational settings.” Education Code 49069.5(a)

PREFERENCE FOR REGULAR PUBLIC SCHOOL PLACEMENT: A student placed in a group home or foster home shall attend programs operated by the local educational agency, unless: 1) The student has an IEP requiring another educational placement; or, 2) The person holding right to make educational decisions determines that it is in the best interest of student to be placed in another educational program, or that the student continue in his or her school of origin.

Education Code §48853(a)

JUVENILE COURT SCHOOL PLACEMENTS: Before placement in a juvenile court school, the person holding right to make educational decisions shall first consider placement in the regular public school. (Does not apply to student detained in a county juvenile hall, or committed to a county juvenile ranch, camp, forestry camp, or regional facility.)

Education Code §48853(b)

FOSTER YOUTH IN EMERGENCY SHELTERS: Foster children living in emergency shelters may receive educational services at the emergency shelter as necessary for short periods of time for either of the following reasons: 1) For health and safety emergencies, or 2) to provide temporary, special and supplementary services to meet the child’s unique needs if a decision regarding whether it is in the child’s best interest to attend the school of origin cannot be made promptly, it is not practical to transport the child to the school of origin, and the child would otherwise not receive educational services. The educational services may be provided at the shelter pending a determination by the person holding the right regarding the educational placement of the child.

Education Code 48853 (f)

FOSTER CARE LIAISON: Every LEA must designate an appropriate staff person as a local educational agency liaison for foster children. Liaison shall ensure and facilitate proper school placement, enrollment and checkout from school; assist foster children when transferring schools including ensuring proper transfer of credits, records, and grades; and shall, within 2 business days of foster child’s request for enrollment, contact the school last attended to obtain all academic and other records. School liaison for school last attended shall provide all records to new school within 2 business days of receiving request.

Education Code §48853.5(b),(c),(d)

CONTINUATION IN SCHOOL OF ORIGIN: At initial detention or placement, or any subsequent change in placement of a foster child, the LEA serving the foster child shall allow the child to continue in the school of origin for the duration of the academic school year.

Education Code §48853.5(d)(1)

TRANSFERRING SCHOOLS – RESPONSIBILITY: Proper and timely transfer between schools of students in foster care is the responsibility of both the LEA and the county placing agency.

TRANSFERRING SCHOOLS – EDUCATION WITHOUT DELAY: Once discharged from the foster family home or institution, the receiving LEA must ensure the youth receives an appropriate educational placement that commences without delay.

Education Code §49069.5(b)

LOCAL EDUCATION AGENCY, Cont.

TRANSFERRING SCHOOLS – IMMEDIATE ENROLLMENT: If a change in schools occurs the new school shall immediately enroll the foster child even if the child is unable to produce records normally required for enrollment.

Government Code §7579.1 (b)

TRANSFERRING SCHOOL – WAIVER OF RIGHT TO CONTINUE IN SCHOOL OF ORIGIN: The foster care liaison, in consultation with and agreement of the foster child and person holding right to make educational decisions for the child, may, in accordance with the child’s best interest,

Education Code §48853.5(d)(4)(B)

**DISTRICT, SELPA,
OR COUNTY
OFFICE**

PREFERENCE FOR REGULAR PUBLIC SCHOOL PLACEMENT: The district, SELPA, or county office must first consider services in public education agencies for children with disabilities who reside in LCIs & foster homes. Only if those programs are not appropriate can non-public services be utilized.

Education Code
§56157(a)

RESPONSIBILITY OVER NPS PLACEMENTS: The master contract for NPS/NPA services must include an individual services agreement for each student placed in nonpublic school; must also include a description of process being utilized by the district, county office or SELPA for overseeing & evaluating placements in nonpublic schools. Description shall include a method for evaluating whether the student is making appropriate educational progress.

Education Code
§56366(a)

**PLACING AGENCY
(HSA,
PROBATION)**

PROMOTE EDUCATIONAL STABILITY: The selection of the most appropriate home that will meet the child's special needs and best interests shall, in addition to the other statutory considerations regarding placement, also promote *educational stability* by taking into consideration proximity to the child's school attendance area.

Welfare & Institutions
Code §16501.1(c)(2)

**PLACING AGENCY
(HSA,
PROBATION), Cont.**

MONITOR EDUCATIONAL PROGRESS: The placing agency must make certain that arrangements for, and monitoring of, the child's educational progress while in placement are undertaken.

CDSS Manual of
Policies and
Procedures
(hereinafter MPP) 31-
405.1(o)

ACCESS TO STUDENT RECORDS: County placing agency is authorized to access student records for the purpose of compiling the child's health & education summary, fulfilling educational case management responsibilities, or assisting with the school transfer or enrollment of a student.

Education Code
§49076(11)

REQUIREMENTS FOR CHILD'S CASE PLAN/COURT REPORT: Case plan for each child must contain assurances that the child's foster care placement takes into account proximity to the school in which the child is enrolled at the time of placement. Case plan must also include a summary of the health and education information or records; court report must include a copy of the summary; agency must provide caretaker with summary (30 days for initial placement, within 48 hours for each subsequent placement); case plan must include specified education information about the child including names and addresses of the child's education providers, grade level performance, school record, and any other relevant education information. If any required information is not in case plan, plan must document where the information is located.

Welfare & Institutions
Code §16010(a)(b)(c);
MPP 31-206.351(a)
(c)(d)

CONSIDER EDUCATION RIGHTS: If parent/guardian unwilling or unable to participate in making educational decisions for the child, or if circumstances exist which compromise the ability of the parent/guardian to make educational decisions, the placing agency must consider whether the right of the parent/guardian to make educational decisions for the child should be limited. If that recommendation is made, the court report shall identify whether there is a responsible adult available to make educational decisions for the child.

Welfare & Institutions
Code §358.1, 366.1,
727.2

TRANSFERRING SCHOOLS – RESPONSIBILITY: Proper and timely transfer between schools of students in foster care is the responsibility of both the local education agency and the county placing agency.

Education Code
§49069.5(b)

TRANSFERRING SCHOOLS – NOTIFY LEA: As soon as it becomes aware of the need to transfer a student, the county placing agency must notify the LEA of the student's expected last day of attendance, request the LEA to compile the student's complete educational record, and request that the student be transferred out.

Education Code
§49069.5(c)(e)

The placing agency must notify LEA when student is placed in LCI; provide information to facilitate transfer of records and appropriate placement.

Education Code

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| SUBSTITUTE CARE PROVIDERS | <p>FOSTER PARENT - EDUCATION RIGHTS: If the juvenile court limits the educational rights of the parent/guardian, it may appoint the foster parent as the “responsible person” to assume those educational rights. Foster parents may exercise parental authority and consent to special education and related services <u>without the need for a court order</u> only if the juvenile court has limited the right of the parent/guardian to make educational decisions on behalf of the child, and the child has been placed in a planned permanent living arrangement as a dependent/ward of the court.</p> <p>A foster parent includes relative caretaker or nonrelative extended family member with whom the child is placed through the juvenile court.</p> <p>FOSTER PARENT – ENCOURAGEMENT OF CHILD IN SPECIFIED ACTIVITIES: The foster parent must provide each child an opportunity for, and encourage participation in, specified activities, including education through enrollment in public, private or special schools and assistance with schoolwork.</p> <p>HEALTH & EDUCATION SUMMARY: The caretaker is responsible for maintaining accurate information for the child’s health and education summary.</p> | <p>Education Code §56055; WIC 366.27; 726, 361(a).</p> <p>22 CCR 89379(a)</p> <p>Welfare & Institutions Code 16010(e)</p> |
| SUBSTITUTE CARE PROVIDERS, Cont. | <p>LCI/NPS/NPA CANNOT REQUIRE EDUCATIONAL AUTHORITY: The LCI, nonpublic school or agency cannot require educational authority be designated to that institution, school or agency.</p> <p>LCI – RESPONSIBILITIES:</p> <p>The LCI cannot require as a condition of placement that it provide the education through a nonpublic school that is owned or operated by the LCI.</p> <p>The LCI must notify the appropriate school district, SELPA, or county office about children in their care who may qualify for special education.</p> <p>The LCI must ensure that each child have a needs and services plan that identifies the child’s educational needs and information about services to meet those needs, and the group home must provide those services.</p> <p>The LCI must ensure each child’s attendance at an educational program in accordance with state law.</p> <p>The LCI must develop, maintain, and implement a written plan to ensure that children participate in an educational program, including supervision of after school study.</p> | <p>Education Code §48854</p> <p>Education Code §56366.9</p> <p>Education Code §56156(c)</p> <p>22 CCR 84068.2(b)(2)</p> <p>22 CCR 84078(d)</p> <p>22CCR 94079Ia)(4)</p> |

**PERSON HOLDING
RIGHT TO MAKE
EDUCATIONAL
DECISIONS**

Be informed of the education rights of the student and the roles and responsibilities of educators, placing agencies, care providers, advocates, and the juvenile courts to ensure educational success of the student. Advocate on behalf of the student to ensure the student has a meaningful opportunity to meet state academic achievement standards, stable school placements, placement in the least restrictive educational programs, and access to the academic resources, services and extracurricular and enrichment activities available to all students. All educational and school placement decisions must be based on the best interests of the child.

Education Code
§48850(a); Welfare &
Institutions Code
§16000(b)

**JUVENILE COURT/
ATTORNEYS**

ROLE OF JUVENILE COURT JUDGE:

- Take responsibility, along with other juvenile court participants at every stage of the child’s case, to ensure child’s educational needs are met.
- Court should ensure that each parent/guardian receives info and assistance concerning his or her child’s educational entitlements as provided by law.
- Provide oversight of the social service and probation agencies to ensure that child’s educational rights are investigated, reported, and monitored.
- Court should work within statutory framework to accommodate sharing of information between parties.
- Child who comes before court and suspected of having exceptional needs or other educational disabilities should be referred in writing for assessment . . . child’s parent, teacher, or other service provider may make the required written referral.
- Require that court reports, case plans, assessments, and permanency plans address child’s educational entitlements and how those entitlements are being satisfied, and contain information to assist court in deciding whether right of parent/guardian to make educational decisions should be limited. Info concerning whether school has met its obligation to provide educational services to child should also be included.
- Facilitate coordination of services by joining the LEA when it appears that an educational agency has failed to fulfill its legal obligations to provide special education to a child who has been identifies as having exceptional needs or educational disabilities.
- Ensure that special education, related services and accommodations are provided whenever child’s school placement changes.

MAKE APPROPRIATE ORDERS – INITIAL HEARING: Among other things, at the initial hearing the court shall direct each parent to provide to the child protective agency complete educational information of the child. The court shall determine at the hearing held pursuant to Section 358 whether the educational information has been provided to the child protective agency.

MAKE APPROPRIATE ORDERS – SCHOOL ATTENDANCE AND SERVICES: The court may direct any and all reasonable orders to the parents or guardians to ensure child’s regular school attendance and to make reasonable efforts to obtain educational services necessary to meet the specific needs of the child.

MAKE APPROPRIATE ORDERS - LIMIT EDUCATION RIGHTS/APPOINTMENT OF RESPONSIBLE PERSON: The juvenile court may limit the right of the parent or guardian to make educational decisions for the child. Whenever the court limits this right, the court must at the same time appoint a responsible person to make those decisions until: (1) the minor reaches 18, (2) another person is appointed to make those decisions, (3) the parent’s rights are restored, (4) a successor guardian or conservator is appointed, or, (5) the child is placed in a planned permanent living arrangement at which time the foster parent, relative caretaker, or non-relative extended family member shall have the right to represent the child.

Juvenile Court
Administrative
Standards §24(h)

Welfare & Institutions
Code §16010(f)

Welfare & Institutions
Code §362(d)

Welfare & Institutions
Code §361, 366.3,
706.5, 726

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