



CASE WORKERS & PROBATION OFFICERS

Your duty to monitor, promote and encourage the educational progress of children in foster care and group homes

An overview of AB 490's changes to the law regulating the education of foster children

Introduction

As you know, youth placed in foster care and group homes face daunting obstacles to successfully completing their education. As a result, it is not surprising that these youth fall behind their peers in educational attainment. Here are a few of the distressing facts:

- 30% perform below grade level.¹
- 50% are held back in school.²
- In a national study, 46% had not completed high school within 2.5 to 4 years after exiting care.³
- In California, less than 3% go on to four-year colleges.⁴
- Despite these low outcomes, their aspirations are very high: 70% plan to attend college, and 19% plan to continue their education past college graduation.⁵

Effective January 1st, 2004, **Assembly Bill 490** imposes new duties and rights related to the education of youth placed in foster care and groups homes. The new law provides for increased school placement stability and improved school transfer procedures. As case workers and probation officers, you have always been charged with the duty to monitor, promote and encourage the educational progress of children placed in foster care or group homes. AB 490 further defines and describes your responsibilities, as well as the responsibilities of school districts, caregivers, and others involved in the education of these children, so that children in foster care and group homes may finally have the educational opportunities they deserve.

¹ Elisabeth Yu et al., *Improving Educational Outcomes for Youth in Care, A National Collaboration*, CWLA Press, 2000.

² Courtney et al., *Foster Youth Transitions to Adulthood: A Longitudinal View of Youth Leaving Care*, CWLA 2001.

³ Ronna J. Cook, *Are We Helping Foster Youth Prepare for Their Future?*, 16 Child. & Youth Services Rev. 213 (1994).

⁴ California Department of Social Services, Data Systems and Survey Design Bureau, Independent Living Program, Annual Statistical Report (2002), <http://www.dss.cahwnet.gov/research/res/pdf/Soc405a/2002/SOC405AOct01-Sep02.pdf>.

⁵ Curtis McMillen et al., *Educational Experiences and Aspirations of Older Youth in Foster Care*, 82 Child Welfare 475 (2003).

I. Guiding principles

- a. You are charged with the duty to foster the educational progress of children in out of home placements. *WIC 16500.1(a)*.⁶
- b. You must work with the children’s educators, caregivers, advocates, juvenile court officers, and the children themselves to ensure stable school placements and a meaningful opportunity for foster children to meet the same state academic achievement standards to which all students are held. *EC 48850(a)*.

II. Making out of home placement decisions

When deciding which placement option is most appropriate for a detained or displaced child, one of the factors you must consider is the placement’s *proximity to the child’s present school* and the impact that the placement would have on the *child’s educational stability*. *WIC 16501.1(c)*.

III. Educational and school placements

- a. **Educational placements must be determined by the child’s best interest.** All decisions regarding educational placements for children in out of home care must be made to ensure:
 - i. That the child has access to the same academic resources, services, and extracurricular activities available to all pupils;
 - ii. That the child is placed in the *least restrictive* educational program; and
 - iii. That the placement is in the child’s *best interest*. *WIC 361, 726; EC 48853*.
- b. **Child’s right to remain in school of origin**
 - i. If you place the child out of home or move the child to a new placement, the school district the child was initially attending **must** allow the child to remain in his or her school of origin for the remainder of the academic school year, provided it in his or her best interest to do so.
 - ii. The child’s best interest is determined by the school district educational liaison for foster children, in consultation with the person holding educational rights *and* the child.

⁶ Throughout this document, abbreviations will be used to refer to California statutes. The Welfare and Institutions Code is “*WIC*,” the Education Code is “*EC*,” and the Government Code is “*GC*.”

- iii. If any dispute arises as to which educational placement is in child's best interest, the child has the right to remain in his or her school of origin until the dispute is resolved. *EC 48853.5*.

c. Preference for Regular School Placement

Children in out of home placements must attend a school operated by the local school district, *unless*:

1. The child has an Individualized Education Plan (IEP) for special education services requiring another educational placement; or
2. The person holding the right to make educational decisions for the child determines that it is in his or her best interest to be placed in another educational program or to continue in his or her school of origin. *EC 48853*.

d. Juvenile court school placements

- i. Before placement in a juvenile court school, the parent or person holding the right to make educational decisions shall *first consider placement in the regular public school*.
- ii. **Exception:** This does not apply to a pupil detained in a county juvenile hall, or committed to a county juvenile ranch, camp, forestry camp, or regional facility. *EC 48853(b)*.

e. Foster children in emergency shelters: 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:

- i. For health and safety emergencies; or
- ii. 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 not otherwise receive educational services. *EC 48853*.

f. School district foster care liaison

- i. Every school district must appoint an *educational liaison for foster children*.
- ii. The duties of the liaison are:

1. To ensure and facilitate proper school placement, enrollment, and checkout from school; and
2. To assist foster children when transferring schools by ensuring proper transfer of credits, records, and grades.

IV. Ensuring smooth school transfers

a. Immediate enrollment

- i. Once it has been determined that a change in schools is in the child's best interest, the new school shall *immediately* enroll the foster child.
- ii. Even if a foster youth owes fees to his or her previous school, and even if he or she is unable to produce the records or clothing normally required for enrollment (such as academic or medical records, immunizations, proof of residency, other documentation or school uniforms), the school district must enroll the child immediately. *EC 48853.5.*

b. Fast transfer of records is crucial

AB 490 states: "The Legislature... finds that efficient transfer procedures and transfer of pupil records is a critical factor in the swift placement of foster children in educational settings." *EC 49069.5(a).*

c. Proper and timely transfer of records is the responsibility of both the county placing agency and the school district

- i. As soon as you become aware of the need to transfer a student to a new school, you must:
 1. Notify the school of the student's expected last day of attendance;
 2. Request calculation of the student's seat time, credits, and grades; and
 3. Request that the student be transferred out. *EC 49069.5(c).*
- ii. **Old school district:** Within two business days of receiving your request, the school must transfer the student out and deliver a determination of the student's seat time, full or partial credits earned, classes, grades, immunizations, and special education plan to the student's next educational placement. *EC 49069.5.*

- iii. **New school district:** Within two business days of the child's request for enrollment, the new school must contact the last school attended by the child to obtain all academic and other records. *EC 48853.5 (d)(4)(C)*.

V. Limiting the educational rights of parents/guardians

a. Recommendation to limit educational rights

Whenever a child's parent or guardian is unable/unwilling to make educational decisions for the child, you must make a recommendation to the court regarding whether or not the parent/guardian's educational rights should be limited. If you recommend limiting the parent/guardian's educational rights, you must identify whether or not there is a responsible adult available to make those decisions. *WIC 358.1(e)*.

b. Court procedure for limiting the parent/guardian's educational rights

- i. If the court decides to limit the educational rights of a parent or guardian, the judge will include the limitation in the court order.
- ii. At the time the court limits the educational rights of the parent or guardian, it must appoint a **responsible adult** to make such decisions.
- iii. If the court is unable to locate a responsible adult for a student who has been referred to or is currently receiving special education services, the court shall then refer the child to the local school district for the appointment of a **surrogate parent**.
- iv. If the child is later placed in a **planned permanent living arrangement**, the child's caretaker assumes educational rights, and the previously appointed responsible adult or surrogate parent can no longer make educational decisions on behalf of the child. *WIC 361(a)*.

VI. Access to the child's school records

You are authorized to access school records, without parental consent or court order, in order to:

- a. Compile the child's health and education summary;
- b. Fulfill educational case management responsibilities; or
- c. Assist with the school transfer or enrollment of a pupil. *EC 49076*.

VII. Other changes in the law

- a. Grade protection:** The grades of a child in out of home placement may not be lowered due to absences from school caused by a change in placement, attendance at a court hearing, or other court-related activity. *EC 49069.5.*
- b. Calculation of school credits:** The school district must award credit to youth in foster care or group homes for full *or partial* coursework satisfactorily completed while attending a public school, juvenile court school, or nonpublic, nonsectarian school. *EC 48645.5.*
- c. Diplomas:** If a student completes the graduation requirements for the local school district while being detained, the school district may have to issue a diploma from the school the child last attended. *EC 48645.5.*
- d. Consent to life quality assessment:** You may consent to a life quality assessment for developmentally disabled delinquent or dependent youth. *WIC 4570.*