

## Assembly Bill (“AB”) 379

For over a decade, foster youth whose education rights were violated had no reasonable way to protect their rights. For example, if a youth was denied partial credits from their high school, their only fix was to sue the school district in court. Such lawsuits are impracticable.

AB 379 created an enforcement mechanism by which foster youth can now enforce their rights. The law, effective as of January 1, 2016, incorporates foster youth education rights into California’s Uniform Complaint Procedure (“UCP”) process.

## The Uniform Complaint Procedure Process

The UCP process provides parents, students, and other interested parties a streamlined way to resolve disputes regarding certain education laws by filing a complaint with the school district or the California Department of Education (“CDE”). In addition to foster youth education rights, the UCP process is used for violations of laws related to, among other things, special education, textbook availability, pupil fees, and teacher placement.

When a complaint is filed with the school district, the school district must investigate and provide a written response including a proposed resolution within 60 days. If a complainant (the person who filed the complaint) is not satisfied with the school district’s response, he or she may file an appeal with the CDE, who must also investigate and respond in writing within 60 days. In some circumstances (e.g., an entire group of students is having their rights violated), a complaint may be filed directly with the CDE for immediate resolution, skipping the normally required step of first filing with the school district. If it is determined that a school district has failed to uphold its responsibility to the student, then the school district may owe, and/or the CDE may order, remedies such as compensatory education services or re-training of staff. See [Sample District and CDE Remedies](#).

*5 C.C.R. §§ 4600-4687.*

## Filing a Complaint

The protections of AB 379 apply to “foster youth,” broadly defined to include all youth removed from their homes or subject to a petition under Cal. Welf. & Inst. Code §§ 300, 309, or 602. This includes youth with open dependency and delinquency cases. See [Who is a Foster Youth?](#)

As with most complaints under the UCP, any individual (e.g., the youth, their education rights holder, caregiver,

social worker/probation officer, legal representative in court), public agency, or organization may file a written complaint with the school district or charter school for a violation of foster youth education laws.

## Appropriate Topics to File a Complaint On

Complaints may be filed with the school district or charter school or, under some circumstances, directly with the CDE, for failure to comply with any component of the relevant education code sections.<sup>1</sup> Complaints can be filed for:

### SCHOOL PLACEMENT

- School placement decisions being made by someone other than an ERH.

See [Education Decision Makers for Foster Youth](#).

*Cal. Educ. Code § 48853.*

### ENROLLMENT IN REGULAR PUBLIC SCHOOL

- Denial of the right to attend a regular public school;
- forcing a youth to attend a continuation school, independent study program, or other alternative educational setting, without ERH agreement that that is in the youth’s best interests;
- denial of the right to be educated in the least restrictive environment; or
- failure of a foster youth liaison to ensure and facilitate the proper educational placement, enrollment in school, or checkout from school of a foster youth.

See [Enrolling Foster Youth](#).

*Cal. Educ. Code §§ 48853, 48853.5.*

### IMMEDIATE ENROLLMENT

- Denial of the right to immediately enroll for any reason including due to outstanding fees, fines, textbooks, or inability to produce clothing or records normally required for enrollment such as academic or medical/immunization records;
- denial of the right to immediately enroll in the school of residence once it is determined by the ERH that enrollment is in the foster youth’s best interest;
- denial the right to immediate enrollment at a charter school; or
- denial of the right to immediate enrollment in the same or equivalent classes as those the foster youth was taking at their prior school.

See [Enrolling Foster Youth](#).

*Cal. Educ. Code § 48853.5.*

<sup>1</sup>The laws incorporated into the UCP by AB 379 define the responsible entity in slightly different ways. All charter schools must ensure foster youth their rights to immediate enrollment, school of origin, equal access to services, records, and discipline notification. *Cal. Educ. Code §§ 48850-48859.* The laws regarding partial credits and AB 167/216 do not apply to most charters, unless the charter school is participating as a member of a special education local plan area, although charter schools are encouraged to afford students these opportunities for success. *Cal. Educ. Code §§ 49069.5, 51225.1-3.* This section of the toolkit refers to “school district” for ease of understanding, but that term should be read to apply to charter schools where the underlying law also applies.

## ENROLLMENT IN SCHOOL OF ORIGIN

- Denial of the right to remain in the school of origin while the court case is open;
- denial of the right to remain in a charter school as school of origin;
- denial of a K-8 foster youth's right to remain in their school of origin through the end of the academic school year after their court case is closed;
- denial of a high school foster youth's right to remain in their school of origin through graduation, even if their court case closes while they are still in high school;
- denial of a foster youth's right to matriculate with his or her peers from elementary to middle school or from middle to high school in accordance with established feeder patterns within the district of origin;
- failure of the foster youth liaison to provide a written explanation stating the basis for a recommendation to move a foster youth out of their school of origin; or
- denial of the right to remain in the school of origin pending resolution of a dispute regarding a request to remain in the school of origin.

See **School of Origin**.

*Cal. Educ. Code § 48853.5.*

## EQUAL ACCESS TO SCHOOL SERVICES

- Denial of equal access to academic resources (e.g., tutoring, A-G/Honors courses);
- denial of equal access to other school services (e.g., school based mental health services);
- denial of equal access to extracurricular activities (e.g., sports, art, drama, music);
- denial of equal access to enrichment activities (e.g., field trips, college fairs); or
- denial of equal access to any support or service due to missing a sign-up or try-out deadline.

See **Enrolling Foster Youth**.

*Cal. Educ. Code § 48853.*

## EMERGENCY SHELTER SCHOOLS<sup>2</sup>

- Educating a foster youth in an emergency shelter for a long period of time;
- educating a foster youth in an emergency shelter even though they are not experiencing a health or safety emergency; or
- educating a foster youth in an emergency shelter even though all four of the following conditions have not been met: (1) a school of origin decision cannot be made quickly; (2) it is not practical to transport the youth to the school of origin in the meantime; (3) the youth would otherwise not receive educational services; and (4) temporary, special, and supplementary services are available to meet the youth's unique needs.

*Cal. Educ. Code § 48853(g).*

<sup>2</sup>California law allows foster youth living in emergency shelters to receive schooling at those shelters for short periods of time for either: (1) health and safety reasons; or (2) to provide temporary, special, and supplementary services to meet the youth's unique needs if: (a) a decision regarding whether to attend the school of origin cannot be made promptly; (b) it is not practical to transport the youth to the school of origin; (c) the youth would otherwise not receive educational services; and (d) temporary, special, and supplementary services are available to meet the youth's unique needs. *Cal. Educ. Code § 48853(g)*. This law attempts to strike a balance between ensuring that all youth are receiving education services at all times and the fact that emergency shelters are not set up to provide education services in the way that a local or alternative school site is. Emergency shelter schools should never be long-term education placements.

## RECORDS

- Failure to ensure the proper transfer of records from one school to another within 2 business days upon a foster youth's transfer; or
- failure to ensure that the duty to request and transfer records was assigned to a person competent to handle the transfer procedure and aware of the specific education recordkeeping needs of foster youth.

See **Requesting Education Records**.

*Cal. Educ. Code § 48853.5; 49069.5.*

## PARTIAL CREDITS AND CHECKOUT GRADES

- Denial of the right to credits, including partial credits, and/or check out grades upon transfer into or out of the school/district;
- denial of the right to credits based on a determination of seat time;
- denial of the right to have grades and credits calculated as of the date the youth left school without lowering their grades due to absences resulting from a decision to change their home placement;
- denial of the right to have grades calculated without lowering their grades due to absences resulting from court appearances or court ordered activities;
- failure to ensure that the duty to issue or accept partial credits was assigned to someone who is aware of the specific partial credit needs of foster youth who transfer between schools;
- denial of the right to have partial credits applied to the same or equivalent courses as the coursework completed in the prior school;
- denial of the right not to be forced to retake a course or portion of a course satisfactorily completed at a prior school; or
- denial of the right to retake a course to meet the eligibility requirements for admission to the California State University or University of California.

See **Partial Credit Model Policy** and **Enrolling Foster Youth**.

*Cal. Educ. Code §§ 48853.5; 49069.5; 51225.2.*

## GRADUATION UNDER AB 167/216

- Denial of the right to be exempt from coursework and other requirements adopted by the district that are in addition to the statewide requirements if the youth: (1) transferred schools after the completion of their second year of high school; and (2) is not reasonably able to complete district graduation requirements by the end of their fourth year of high school;
- denial of the right to complete additional courses (e.g., A-G courses) for which the foster youth would otherwise be eligible;

- denial of the right to remain in their local high school for a fifth year to complete school district graduation requirements if the youth is reasonably able to do so;
- denial of the right to remain in attendance at school through the end of the fourth year, even if the youth has already completed all statewide coursework requirements prior to the end of the fourth year;
- revocation of the foster youth's right to graduate under AB 167/216 at any time after certifying them as eligible;
- requiring or requesting that a foster youth transfer schools solely to qualify for AB 167/216 graduation;
- refusal to reconsider the foster youth's eligibility for AB 167/216 graduation after a request by the foster youth and/or their ERH;
- failure to inform a foster youth, their ERH, and/or social worker/probation officer of a youth's eligibility or ineligibility for AB 167/216 graduation within 30 days of transferring into the school/district;
- failure to inform a foster youth and their ERH of: (1) the effect of graduating under AB 167/216 on admission to postsecondary education institutions; (2) the youth's option to remain in school for a fifth year to complete district

requirements if he or she is reasonably able to do so; and/or (3) transfer opportunities available through the California Community Colleges; or

- failure to issue a normal high school diploma for the foster youth upon their completion of all required state coursework.

See **High School Graduation for Foster Youth: AB 167/216**.

*Cal. Educ. Code §§ 51225.1, 51225.3*

## **DISCIPLINE**

- Failure of the foster youth liaison to notify the foster youth's attorney and/or appropriate representative of the county child welfare or probation agencies of pending expulsion proceedings, proceedings to extend a suspension, or a pending manifestation determination Individualized Education Program ("IEP") meeting.

See **Disciplinary Challenges of Foster Youth**.

*Cal. Educ. Code § 48853.5.*