

# Special Education and Foster Youth

Foster youth qualify for special education services at least twice as often as other student populations.<sup>1</sup> They change schools more frequently, are placed in more restrictive education settings, and have poorer quality Individualized Education Programs (“IEP”) than their non-foster care peers.<sup>2</sup> Because foster youth may not have stable advocates at home, schools must be sensitive to their distinct needs in order to provide them with a free and appropriate public education (“FAPE”).

## CHILD FIND/ASSESSMENTS

Schools have an independent duty to identify students who may be eligible for special education services. Because foster youth experience instability at home, caregivers or ERHs may miss signs that a youth is struggling with a disability. Best practice is to train teachers, counselors, and other personnel to look for warning signs that a foster youth has a suspected disability and could benefit from special education services. Warning signs include: (1) poor grades; (2) withdrawal or depression; (3) acting out or disciplinary problems; (4) poor attendance; (5) inattention or failure to complete work; or (6) social skills deficits or failure to make friends. In addition, adults in a foster youth’s life can make a referral for special education services (e.g., caregivers, ERHs, social workers, mental health providers). After an assessment is requested, school districts must either provide an assessment plan or a written refusal to assess within 15 calendar days. *Cal. Educ. Code §§ 56300-56330.*

## CONSENT AND PARTICIPATION

For all foster youth with disabilities (or those suspected of having a disability), it is crucial to identify an appropriate ERH. ERHs must: (1) consent to assessments, (2) attend/meaningfully participate in all IEP meetings, and (3) consent to the IEP document.

**Determining ERHs:** If you do not know who holds education rights or are unable to reach the ERH after multiple attempts, call the youth’s social worker/probation officer. Under limited circumstances, a school may appoint a “surrogate parent” to participate/consent. See **Education Decision Makers for Foster Youth.**

**IEP Meeting Participants:** Foster youth have other people serving them who may contribute to an IEP meeting including a non-ERH caregiver, social worker, or outside mental health professional.

*Cal. Educ. Code §§ 56021.1, 56043, 56055, 56341, 56342.5.*

## IEPS AND SCHOOL TRANSFERS

Foster youth instability contributes to a high number of school transfers.

**Upon Enrollment:** Screen foster youth for prior special education services. If anyone in the youth’s life (including the youth) reports that there is an IEP, immediately locate the most recent special education records and provide comparable services to those received in the prior IEP. Schedule an IEP meeting within 30 days to discuss the youth’s education program and make any needed modifications. See **Requesting Education Records.**

**Upon Disenrollment:** When a youth leaves the school, collect feedback from teachers and other service providers about current progress towards IEP goals. Within two days of disenrollment, forward all special education records, including all IEPs and assessments, to the new school. See **Disenrolling Foster Youth and Forwarding Education Records.**

## IEPS AND SCHOOL DISCIPLINE

Foster youth have high rates of mental health and behavioral disabilities caused by the abuse and neglect they suffer. See **Trauma Related Needs of Foster Youth.** This often leads to both special education eligibility and disciplinary measures being taken against them. If a youth with an IEP is suspended for ten days in a school year or a pattern of suspensions that exceeds ten days, the youth is entitled to a “manifestation determination” IEP meeting to determine whether the behavior leading to the suspension was related to the student’s disability or the school’s failure to implement the IEP. If the behavior was substantially related to the youth’s disability, or caused by the school’s failure to implement the IEP, the student cannot be further disciplined. Best practice includes determining whether further assessments and/or a modification in the youth’s services are necessary to address the unmet need. A representative from the local child protective services agency must be invited to the manifestation determination meeting. *Cal. Educ. Code § 48915.5.* See **Disciplinary Challenges of Foster Youth.**

<sup>2</sup> The Invisible Achievement Gap, Part 1

<sup>3</sup> Sarah Geenen & Laurie Powers, *Fostering Futures Project, Are We Ignoring Foster Youth with Disabilities?* 51 Social Work, No. 3, 2006.