



**Juvenile Law Center Supports Laws and Policies that Promote School Stability**

*Testimony of Katherine Burdick, Esq. on Behalf of Juvenile Law Center  
Before the House Children and Youth Committee  
October 6, 2014*

Good afternoon. I am Katherine Burdick, an attorney and Equal Justice Works Fellow, sponsored by Greenberg Traurig LLP, at **Juvenile Law Center**. Thank you for this opportunity to testify about the importance of providing a stable education experience to children and youth in the dependency system.

Juvenile Law Center has been advocating for youth in jeopardy for 39 years, making it the oldest multi-issue public interest law firm for children in the United States. Juvenile Law Center uses the law to ensure that youth, particularly those in the child welfare and juvenile justice systems, receive fair and developmentally appropriate treatment. We collaborate with Education Law Center and the American Bar Association Center on Children and the Law to form the Legal Center for Foster Care and Education.<sup>1</sup> Through the Legal Center, we advocate for better educational opportunities for the thousands of youth in care in Pennsylvania and nationwide.

The Legal Center has created a comprehensive guide to improving education outcomes for children in the child welfare system, called the Blueprint for Change.<sup>2</sup> It contains 8 goals and 56 corresponding benchmarks as a framework for direct case advocacy and system reform efforts. In view of the striking data that underscores the importance of school stability for the child's educational success and overall wellbeing, the first goal in the Blueprint is that youth in care are entitled to remain in

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<sup>1</sup> See the Legal Center for Foster Care and Education's website at [www.fostercareandeducation.org](http://www.fostercareandeducation.org).

<sup>2</sup> *Blueprint for Change: Education Success for Children in Foster Care* is available on the Legal Center's website at <http://fostercareandeducation.org/AreasofFocus/BlueprintforChange.aspx>.

their same school when feasible, and the second is that youth have seamless transitions between schools if changing schools is in fact in their best interests.<sup>3</sup>

We know that children in foster care often bounce between living placements, frequently changing schools with each move. Across the Commonwealth, over a third of children who are in foster care for 12-23 months experience three or more child welfare placements.<sup>4</sup> As you have already heard today, changing schools causes these children – who are typically already behind academically – to fall even further behind, while stability in general dramatically increases the chances of academic success.<sup>5</sup> One study that stands out found that students in foster care with just one less change in living placement were nearly two times as likely to graduate high school before leaving care.<sup>6</sup> This

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<sup>3</sup> The other Blueprint goals are as follows:

Goal 3 - Young Children Enter School Ready to Learn

Goal 4 - Youth Have the Support to Fully Participate in School

Goal 5 - Youth Have Support to Prevent School Dropout, Truancy, and Disciplinary Actions

Goal 6 - Youth Are Involved and Empowered

Goal 7 - Youth Have Education Advocates and Decisionmakers

Goal 8 - Youth Have Support to Enter Into and Complete Post Secondary Education

<sup>4</sup> Pennsylvania Partnerships for Children, The Porch Light Project, State of Child Welfare - Pennsylvania (2013), at [http://porchlightproject.org/reports/socw13/2013\\_State\\_of\\_Child\\_Welfare\\_Report.pdf](http://porchlightproject.org/reports/socw13/2013_State_of_Child_Welfare_Report.pdf).

<sup>5</sup> See generally *Fostering Success in Education: National Factsheet on the Educational Outcomes of Children in Foster Care*, at [http://fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?EntryId=1937&Command=Core\\_Download&method=inline&PortalId=0&TabId=12](http://fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?EntryId=1937&Command=Core_Download&method=inline&PortalId=0&TabId=12).

<sup>6</sup> *Id.* (citing Pecora, P., Williams, J., Kessler, R., Hiripi, E., O'Brien, K., Emerson, J., Herrick, M., Torres, D. (2006). Assessing the educational achievements of adults who formerly were placed in family foster care. *Child and Family Social Work*, 11, 220-231).

improvement is particularly important in view of the fact that nationally, roughly half of youth in care will not complete high school by age 18.<sup>7</sup>

Changing schools also leads to a host of additional obstacles to school success. Enrollment in a new school may be delayed – and I have heard of cases where students were out of school for months waiting for the proper paperwork to be processed. In addition, school records may be delayed or lost entirely. For one student I spoke to recently, her special education Individualized Education Program (IEP) went missing when she changed schools and she struggled for months in the wrong courses until the records finally arrived and were reviewed. Finally, a chronic problem for highly mobile youth is the loss of academic credit. Students who change schools midterm often receive no credit for work done in the first part of the semester. Lost records and unaligned curricula further compound this problem. It is common to retake classes, like the one student who complained of taking home the “fake baby” for child development class three times, or for ridiculous scenarios to arise – such as one student who had to take Spanish I again even after acing Spanish II, to meet her district’s language requirements after records showing she passed Spanish I were lost. Many older youth get so frustrated by retaking courses, or being in courses with much younger peers, that they choose to drop out entirely or pursue a GED rather than “waste their time” in the classroom.

Frequent school moves can also have devastating effects on the overall wellbeing of the child. These youth are often already experiencing excessive chaos and uncertainty. Unfortunately, changing schools causes greater stress and social anxiety that can affect the child for their entire lives. I have spoken about this with many older youth who are currently or were previously in care and I wanted to

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<sup>7</sup> *Id.* (citing Wolanin, T. R. (2005). Higher education opportunities for foster youth: A primer for policymakers. Washington, DC: The Institute for Higher Education Policy).

share some of their experiences here to highlight this point. I have changed the names to protect the students' privacy.

- Jean moved attended four or five different schools. She said there was only one person she could talk to socially at all. She explained that she did not feel like repeating her story over and over again and found little reason to try to make friends because she expected she will have to move again soon. She said she was also tired of other teenagers in the school spreading rumors about her because they don't know her.
- Rhonda found it hard to make friends in a new school, especially because she believes other students judged her for being in a group home. She noted how difficult it is for kids in care to get good grades when they are worried about moving all the time.
- Annika attended 11 schools after entering care at age 6. She only attended two of those schools for more than a year. Because Annika changed schools so often, she had trouble making friends when she was younger. She used to have to lie about being in care to gain acceptance from her peers. At one school, Annika was bullied for being the new girl, but did not inform the teacher or another adult because she did not know them. Due to all the change in her early years, Annika said she still has trouble forming long-term relationships. She noted that youth in foster care are dealing with many family and emotional problems and so do not have a strong support system to help them focus on school.

At the same time, many youth who have a tumultuous home life point to consistency at school as the saving grace that allowed them to stay on track despite the onslaught of challenges they faced outside the classroom. When Annika, whom I mentioned just now, was finally able to stay in the same school for the last two years of high school, she finally developed close friendships – which she still maintains – and a strong bond with her Dean and several teachers. When Annika moved into a Supervised Independent Living apartment at age 17, her English teacher sat her down to explain the importance of staying focused on school despite her new independence at home. The same teacher used to text her in the morning to make sure she got up and went to school. She also lent Annika her personal computer so that Annika could complete her senior project. Annika was then able to graduate on time and start community college. Positive school experiences and stable, supportive relationships with adults are protective factors that help develop resilience in youth who have otherwise experienced

trauma and instability. This is critical for these youth to cope with significant challenges and become successful, self-sufficient adults – especially once they age out of the foster care system and may lack any meaningful support system.<sup>8</sup>

Given how important school stability is for youth in care, Juvenile Law Center strongly supports passing legislation to ensure that children in care across the Commonwealth are able to remain in the same school when in their best interests. We are very pleased that the Committee is considering HB 569 and 973. However, we do recommend that you consider a few changes to the bills as written:

1. In HB 569, we would eliminate the reasonableness of the child’s travel time as an explicit factor in determining what school the child will attend. If the commute would be unreasonable for a particular child, this should be considered as part of the decision as to whether staying in the same school would be contrary to the child’s well-being. Pulling it out as a separate consideration puts too much emphasis on this particular factor, and it is unclear as for whom the travel time would be unreasonable. For the same reasons, in HB 973, we would delete the language allowing the child welfare agency to change the child’s school if remaining in the same school would be “impractical.”
2. In HB 569, we support the provision allowing for the wishes of the parent to be taken into consideration. However, we would revise this to apply to the person legally authorized to make education decisions for the child, which in many cases will be the child’s biological parent but could be another party, such as an Educational Decision Maker (EDM) appointed by the court pursuant to Juvenile Court Procedural Rules 147 or 1147.
3. In HB 973, if it is in the child’s best interests to change schools, the bill should clarify that the child should be enrolled the next business day, but no later than five business days after the enrollment documents are presented. The bill currently includes the five business day requirement but does not emphasize, as do our current regulations (22 Pa. Code 11.11), that the child should be enrolled the next day. This is also consistent with Fostering Connections, which mandates immediate enrollment when a child must change schools.
4. Also in HB 973, instead of directing the LEA to provide education records, which may be better dealt with the in school code, the bill should require the child welfare agency to maintain up-to-date education records in the child’s case file, consistent with Fostering Connections. It is imperative that child welfare maintain these records so they can

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<sup>8</sup> See Jim Casey Youth Opportunities Initiative, Promoting Development of Resilience Among Young People in Foster Care (2012), at <http://jimcaseyyouth.org/sites/default/files/documents/Issue%20Brief%20-%20Resilience.pdf>.

promptly enroll the child and ensure that the child is in the correct courses, receiving any necessary special education or disabilities services, and receives academic credit for work done.

In addition, as others today have emphasized, these bills alone cannot create the robust right to a consistent school that these youth need. Rather, the Legislature must also amend the School Code to ensure school districts and charter schools are equal partners in promoting school stability. We frequently hear from child advocates and child welfare case workers who have attempted to maintain a child in their same school but have been denied by the district. This may stem from the district's misunderstanding of residency requirements or confusion on how to seek reimbursement for a student residing in a different district. Giving clear guidance to school districts on the need to continue educating these students when in their best interests, and how to seek reimbursement, is essential to making school stability a reality. The child welfare department and court simply cannot do it without cooperation from schools.

Recognizing, too, that there will be situations in which it is not in a child's best interest to continue attending the same school, it is also imperative for the School Code to be amended as follows:

1. Ensure that students who do change schools are enrolled and begin attending classes immediately.
2. Ensure that complete school records accompany the student and that a designated point of contact in the new school promptly reviews them to ensure the student receives credit for work done, is in the correct courses, and receives the services and accommodations in any existing IEP or 504 plans.
3. If the student is in high school, the point of contact at the new school should meet with the student to discuss how many credits and partial credits the student has already earned, what credits are courses are needed to graduate on time, and to help the student access credit recovery programs or earn credit through less traditional means – such as work experience.
4. Finally, if a student has met state graduation standards but has not taken all the required courses of the district he or she happens to “land in last,” the student should nevertheless be entitled to a diploma issued by the Commonwealth.

Finally, I would like to comment on the topic of transportation. Although transportation costs must not be a factor in determining which school is in the child's best interests, it is nevertheless a real barrier to achieving school stability. Juvenile Law Center suggests that the child welfare agency be required to pay for transportation, unless there is another agreement or policy by local or state entities, or if the school code is amended to require schools to cover this cost.

Importantly, within the child welfare system, many children will not need transportation, either because they remained at home, moved to a child welfare placement within the same school catchment area or district, already completed high school or a GED, will be attending cyber school, or it is in their best interests to change schools.

Even when a student does require transportation to maintain school stability, there are often low- or no-cost solutions – such as utilizing a combination of existing bus routes, relying on a supportive adult such as a foster parent or teacher, or purchasing public transportation passes.

For eligible students, child welfare agencies are able to draw down Title IV-E funds to support transportation costs for school stability, which allows for additional cost sharing to ease this burden. Some students will also be eligible for transportation under the McKinney Vento Homeless Assistance Act or as a related service through their IEP and can access McKinney or special education dollars to help pay for this.

Providing transportation is attainable, and is being done around the country. For example, in Butte and San Diego Counties in California, child welfare and the school district find creative ways to minimize education costs, draw down whatever funds are appropriate, and then split remaining costs.<sup>9</sup> In

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<sup>9</sup> For more information, see the Legal Center for Foster Care and Education's issue brief on the topic: *When School Stability Requires Transportation: State Considerations* (May 2011), at [http://www.americanbar.org/content/dam/aba/publications/center\\_on\\_children\\_and\\_the\\_law/education/transp\\_ortation\\_brief\\_final\\_revised.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/education/transp_ortation_brief_final_revised.authcheckdam.pdf).

Delaware, all children in foster care are considered eligible under McKinney Vento, and therefore can utilize McKinney dollars to support transportation. In Virginia, the child welfare agency is responsible for arranging and paying for transportation.

Transportation is key to making school stability a reality for children who really need it. As you consider the transportation aspect of the proposed legislation, we urge you to be clear about how it will be provided.

Thank you for allowing me to testify on this important topic.

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