



## **House Children and Youth Committee**

### **Public Hearing on Foster Care Education**

**October 6, 2014**

#### **Testimony of Lucy Johnston-Walsh, Esq.** **on Behalf of the Pennsylvania Bar Association**

On behalf of the 27,000 members of the Pennsylvania Bar Association (PBA), and my colleagues on the PBA's Children's Rights Committee, I thank Committee Chair Katharine Watson, Democratic Chair Louise Bishop, and members of the Committee, and staff for focusing your attention on the education of foster care children and youth.

The Pennsylvania Bar Association is committed to supporting the well-being of all youth in foster care. The PBA recognizes that educational success is central to a child's well-being and his or her life outcomes. Research shows that children in foster care are educationally at risk, due to the impermanence of foster care. Frequent school changes are a contributing factor to poor academic outcomes. Unfortunately, children who are in foster care change schools on average two to three times per year. Foster care youth are more likely than children in stable home environments to drop out of school, repeat a grade and score poorly on statewide educational assessments. The federal Fostering Connections Act has addressed the issue of school stability, by including provisions designed to improve educational outcomes. Recently, the Pennsylvania Supreme Court promulgated juvenile court rules requiring courts to address educational needs of children in foster care. Yet, despite these initiatives, too many foster youth still struggle with educational issues while in foster care. Therefore, we welcome House Bill 569 and House Bill 973, both of which should help to promote educational stability of youth in foster care. The PBA respectfully offers the following comments on the proposed legislation.

**First, the PBA suggests that the proposed legislation promote educational stability not just at the time of youth's initial placement outside the home, but also when there are subsequent changes in placement.** There are circumstances in which a child cannot remain at her home school upon initial placement into foster care and must transfer to a new school. On occasion, the initial placement does not work and the child is transferred to a second placement. The proposed legislation should recognize that possibly the second or third school might be the most appropriate for the child, and is the school where the child should remain to ensure that



the child's educational needs are appropriately met, rather than being transferred to yet another school at the time of the next placement.

Let me provide a case example. I had a client who lived with her mother in Cumberland County but attended a school in Dauphin County to address her special education needs. Following a stay in a shelter facility in Franklin County, she was placed in a foster home in Cumberland County, but was a different school district than home district. As her attorney, I argued in court for her to be able to stay in her school of origin pursuant to the Fostering Connections Act. Ultimately the foster placement was unsuccessful and she was placed in group home, in yet another school district. When I argued for her to remain in her original school district, the school district representatives were not familiar with the Fostering Connections Act. Courts should review the educational placement decisions at each change of placement.

Another case example was a client who was a graduating from high school. In March of her senior year, her placement changed from group home setting to foster home in a different county. I argued under Fostering Connections that she should be able to graduate with her classmates and remain in her school, which was not her home school district nor her new school district.

**Second, the PBA supports that the proposed legislation specifically directs the court, as compared to the child welfare agency, to make the best interests determination of whether a child should remain in the school of origin at the time of placement and any change of placement.** The court is in the best position to objectively evaluate all relevant information regarding the child in order to make the school determination. The PBA recommends that the legislation include language that the court should make this determination "as soon as possible after it is known that there will be a change in placement or if not known in advance, then as soon as possible after the change in placement has been made." The court should also review the determination at each proceeding to ensure that it is still the appropriate school for the child to attend. Moreover, the PBA recommends that when the child welfare agency makes a temporary determination about where the child will attend school, pending decision by the Court, that the agency consider only what is in the child's best interests and not whether it is "impractical."

**Third, in order to achieve educational stability for foster care children, the PBA believes the Pennsylvania School Code must be amended.** The Pennsylvania School Code and school residency laws neither require, nor facilitate school stability for children in foster care, which is mandated by the Fostering Connections Act. We believe, based on our experiences working



with foster youth, that school districts will not address school stability of foster youth, until the districts are compelled to do so by law.

Pennsylvania Supreme Court Rules direct the practice of courts. Guidance and directives for child welfare agencies comes through state and federal law, bulletins and regulations. However, without changes to the PA School Code, school districts lack the clear mandate and guidance for making the best educational arrangements for youth in foster care. Numerous states, including Virginia, Texas and Connecticut, have amended their respective education codes to require children who are placed in foster care to remain in their original schools, so long as it serves the child's best interests. The Pennsylvania school code should be amended similarly to contain a clear directive.

In conclusion, we ask the sponsors to revise these bills, so as to require the courts to make a "best interests" determination of the foster child's educational placement at each court proceeding. We also ask the sponsors to amend the Pennsylvania School Code to require children who are placed in foster care to remain in their original schools or their current schools, so long as it serves the children's best interests.

On behalf of the PBA and myself, I thank you again for the opportunity to share our views on HB 973 and 569.