

Increasing Foster Care Education and Placement Stability: *Understanding and Implementing Best Interest Determinations*

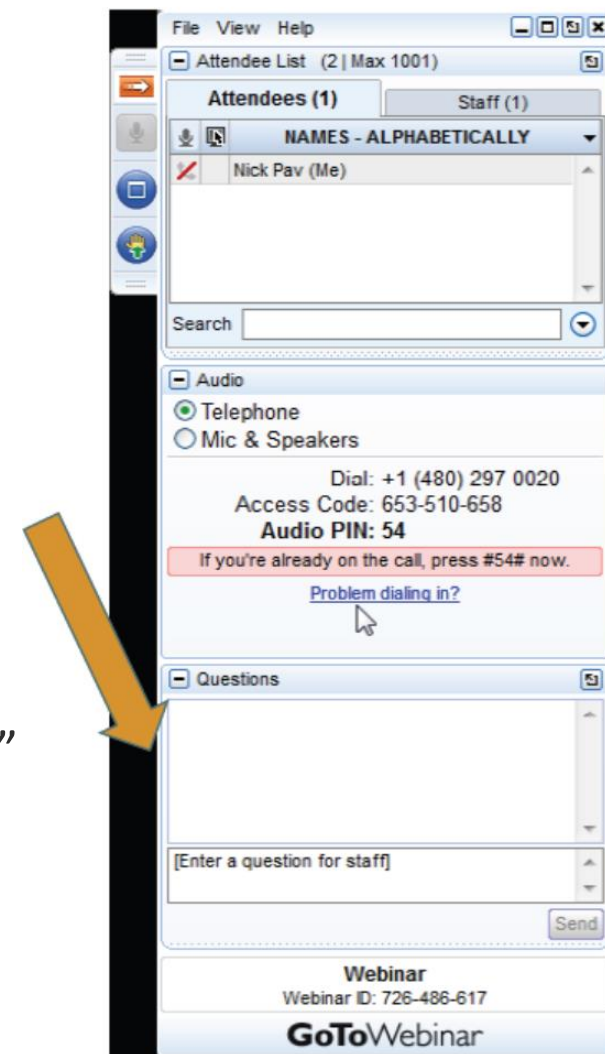


Children's Law Center
of California



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Agenda

- **Best Interest Determination**
 - Why is it important?
 - What is it?
 - When does it occur?
 - Who benefits?
- **What If?**
- **County Implementation Overview**
- **What Happens Next?**
- **Q & A**

Presenters

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Children's Law Center of California**



BEST INTEREST DETERMINATIONS

Promoting educational and placement stability

High Rates of School Mobility

Low Test Scores

High Dropout Rates and Low Graduation Rates



Federal ESSA



Who is eligible

- All foster youth living in out of home care (i.e., not with their biological parents) and probation youth living in suitable placement/foster care placements



SOO Definition

- School most recently attended

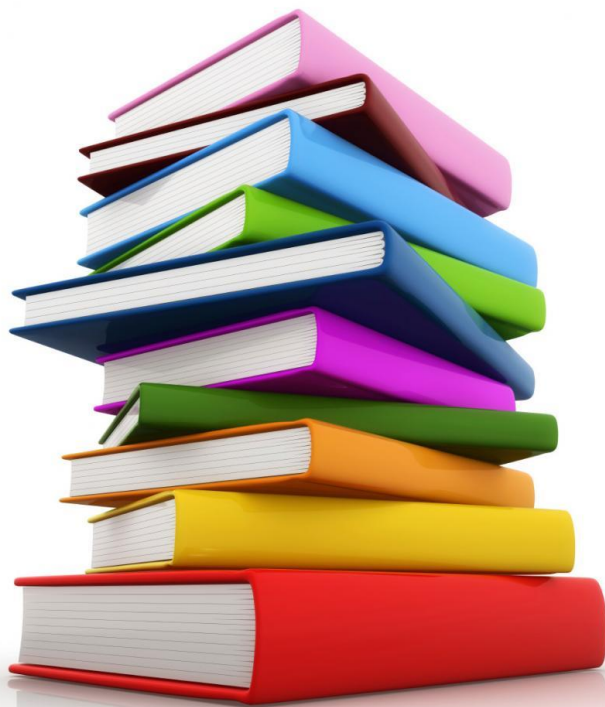
Schools

- All schools run by LEAs
- Charters not specifically in/excluded
- Feeder patterns/matriculation rights don't apply

Duration of Right

- Until case closes
- Federal guidance suggests keeping in SOO until end of school year

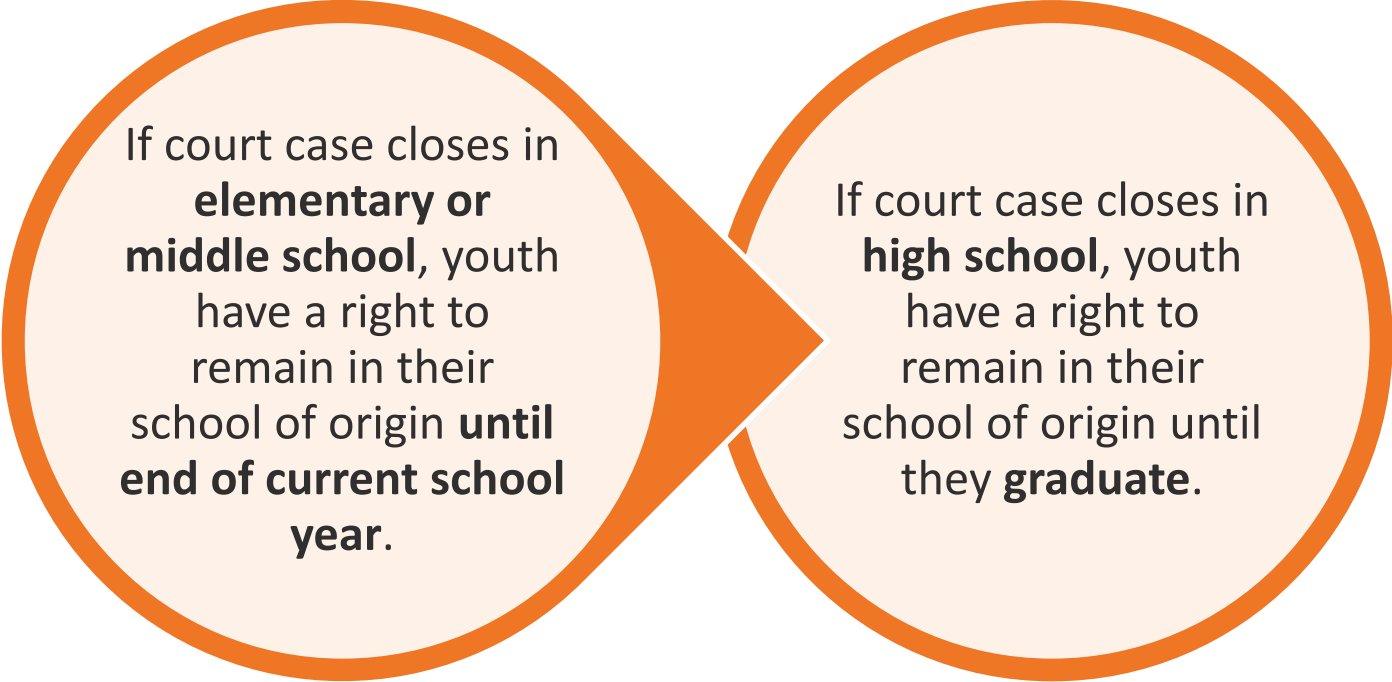
School of Origin



A youth's school(s) of origin includes:

- school youth attended at time they entered foster care and/or probation system(s);
- school youth most recently attended;
- or any school youth attended in preceding 15 months with which they have a connection (e.g., sports team, relationships with peers or teachers).

School of Origin



If court case closes in
**elementary or
middle school**, youth
have a right to
remain in their
school of origin **until
end of current school
year.**

If court case closes in
high school, youth
have a right to
remain in their
school of origin until
they **graduate.**

School of Origin (SOO) as Default

ESSA

- Plan has to **include assurances that all foster youth remain in their SOO unless there is a determination made that it is in youth's best interests to transfer.**

20 U.S.C. 1111(g)(1)(E)(i)

California

- Foster youth can **only be enrolled in a new school after the ERH, upon consultation with the education liaison and foster youth, agrees that it is in youth's best interest.**

Educ. Code 48853.5(f)

Education Rights



- Students in foster care must have access to **the same academic resources, services, and extracurricular and enrichment activities available to all students.**

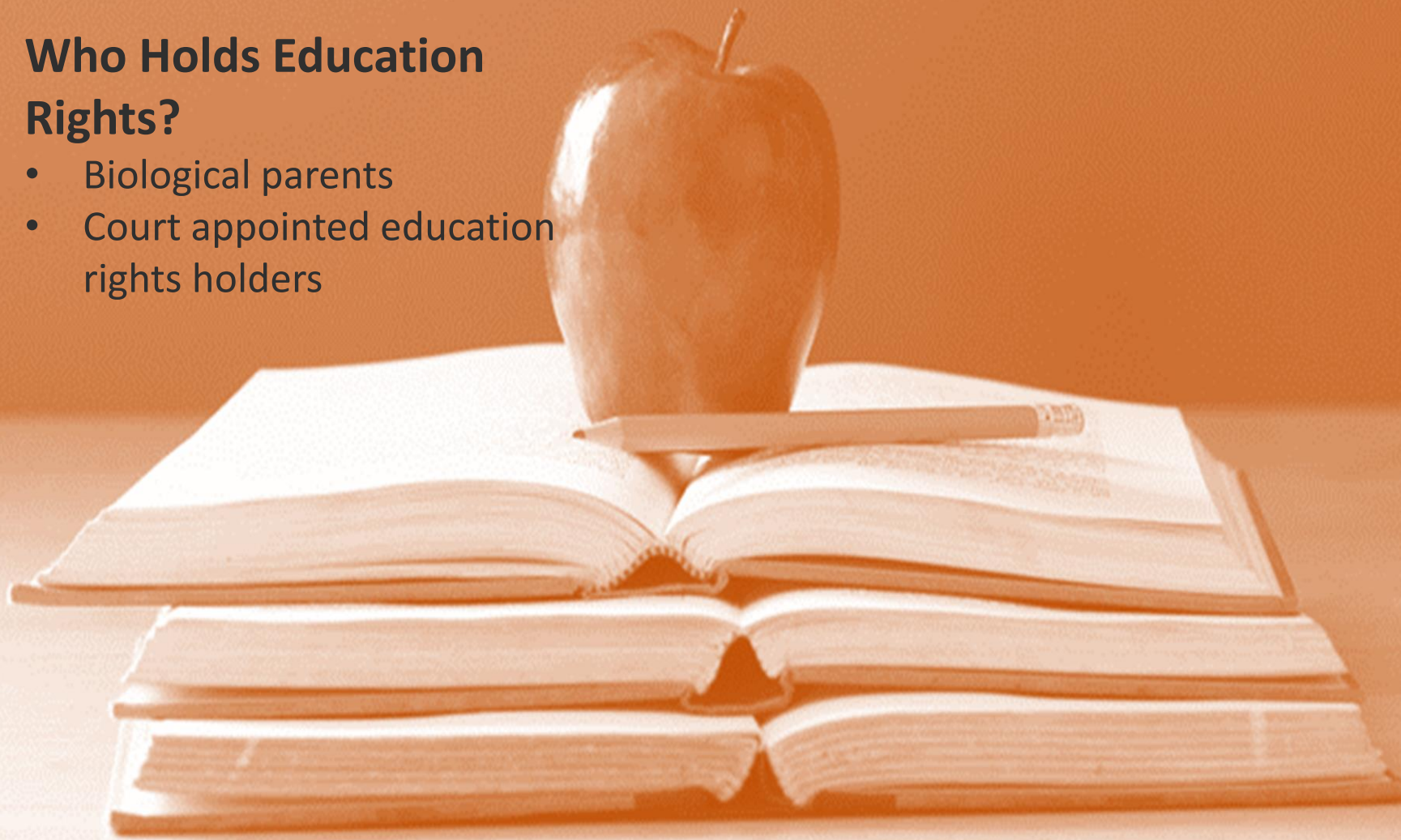


- **All educational and school placement decisions are made by ERH** in consultation with other parties and **must be based on child's best interests** and consider, among other factors, educational stability and least restrictive educational setting necessary to achieve academic progress.

Education Decision Makers

Who Holds Education Rights?

- Biological parents
- Court appointed education rights holders



Educ. Code 56028 (a)(1)-(3), WIC 361, WIC 726

Education Decision Makers

School District Foster Youth Educational Liaisons



- Advisory
- May **recommend**, in accordance with foster child's best interest, that foster child's right to attend school of origin be waived and foster child be enrolled in a public school in attendance area in which foster child resides, if educational liaison:



- consults with foster child and person holding educational rights, and
- provides a written explanation stating basis for recommendation and how recommendation serves foster child's best interests



Education Decision Making

Dispute Resolution



- If a dispute arises regarding the request of a foster child to remain in the school of origin, **the foster child has the right to remain in the school of origin pending resolution** of the dispute.



- Disputes will be **resolved in accordance with the existing dispute resolution process**, such as a uniform complaint, available to a student served by the local educational agency.

Process

- The best interest determination cannot be made for a child without the educational rights holder.
- A child's educational rights holder may determine it is in the child's best interests to attend another educational program other than one operated by the local educational agency.



Best Interest Determination

Three Step Best Practice



Step 1

- Identify that a placement change is occurring
- Identify key participants, including ERH
- Schedule a meeting to discuss best interest



Step 2

- Discuss best interest, including all key factors



Step 3

- Determine transportation
- Immediately implement ERH's decision regarding school enrollment

Best Interest Determination

Step 1



Identify that a placement change is occurring

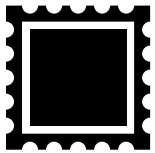
- Social worker/probation officer must provide **notice** to the court, attorney for youth, and the ERH, **no more than 1 court day after making the decision** to change a youth's placement.
 - whenever a school becomes aware that a foster youth will be changing placements;
 - before disenrolling a foster youth whose home placement has changed; and/or
 - before enrolling a new foster youth after a change in their home placement.
- If there is an active IEP, notice must be provided at least 10 days

Best Interest Determination

Step 1 - continued



- **Convene a meeting/phone call** with youth's ERH, new caregiver, minor's attorney/public defender, and social worker/probation officer to inform them of youth's right to remain in their school of origin.



- If youth's ERH cannot be immediately reached, send School of Origin Recommendation Letter to youth's ERH

Best Interest Determination

Step 2



Identify all potential schools

- School youth attended before home placement change or current school if student has not yet changed
- School of residence after home change
- School attended when youth first entered foster care/probation
- Any other school(s) the youth attended in the preceding 15 months
- Any school the youth would have matriculated to using feeder patterns

Best Interest Determination

Step 2 - continued



Consider pros and cons of each potential school

- Youth preference
- Length of attendance
- Academic strengths
- Special education
- English learner
- Social/emotional
- Timing of Transfer
- Anticipated length of placement
- Extracurricular activities
- School Discipline
- Proximity to new home placement
- School schedule

Best Interest Determination

Step 2 - continued



Decision

- Foster Youth Liaison makes recommendation in writing.
- ERH, with consideration of input from liaison and youth, makes final decision on which school the youth should attend.

Best Interest Determination

Step 3

- **Identify** whether school or child welfare/probation agency will be responsible for providing transportation and in what form (e.g., reimbursement, bus service, public transit pass, etc.).
- **Immediately implement** ERH's decision regarding school enrollment.

IEP?

STRTP?

Someone
available to
transport?

Public
transportation?

School district?

Where Do BIDs Occur?

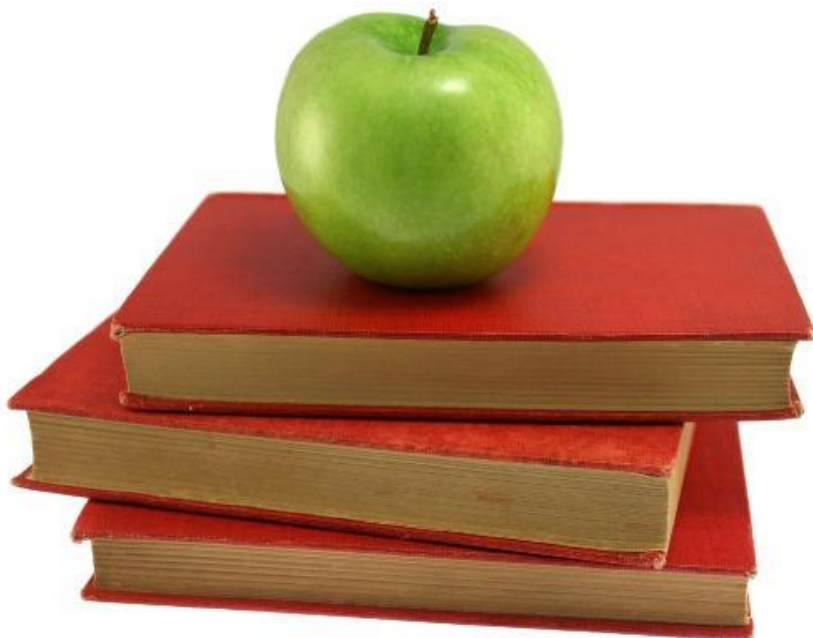


- No legal requirement about where BIDs must be held
- Some BIDs occur in a CFT/TDM, which can be convenient when also discussing home placement changes and if ERH is present
- Some BIDs occur within LEAs
- Other BIDs occur by phone or as a series of phone communications

Education Rights If Changing Schools

Foster youth have the right to:

- **Immediate enrollment** in their local comprehensive public school **if their ERH decides it is in their best interest**, even if they do not have any of the required documents.



SUPPORTING CHILDREN AND YOUTH

Promoting educational and placement stability

AB 1068 (Cooley) - Strengthening CFT process to promote positive safety, permanence, and well-being outcomes for children and youth in foster care

- requiring inclusion of summary of outcomes of CFT in court reports to aid in making orders about placement and services;
- *ensuring ERH and educational liaison are included in CFT meetings where placement decisions are being made;*
- allowing child, youth, parent, or caregiver to request an alternative facilitator to facilitate child CFT meeting if facilitator is social worker assigned to case;
- requiring key participants and minor's and parent's attorneys receive adequate notice of CFT meetings and right to request an alternative facilitator, and
- protecting confidential health care related information of children and youth from being inappropriately disclosed.



WHY IS IT IMPORTANT?

Promoting educational and placement stability

#FosterStability

a youth-led effort to create a
youth-centered process for stability
in all aspects of our lives:



**STABILITY IN
EDUCATION AND
EXTRACURRICULAR
ACTIVITIES**

**STABILITY IN
RELATIONSHIPS
AND LIFELONG
CONNECTIONS**

Every kid is
one caring adult
away from being a
Success Story
#18DAC #CYC
#F18DAC #CYC-SanDiego



**STABILITY IN
A PLACE TO
CALL "HOME"**

**STABILITY IN
HEALTH AND
WELLNESS**



**We will create a system that honors and nourishes
the mind, body, and soul
of every child and youth
impacted by California's foster care system.**



Stability for ALL Youth in Care

*CYC's vision is that all foster youth will be **equal partners** in contributing to **all policies and decisions** made in their lives. All youth in foster care will have their needs met and the support to grow into healthy and vibrant adults.*

How to implement a youth-centered CFT:



- Youth Engagement
- Youth Certified as Facilitators
- Collaborate with CYC Chapters
- **Integrating the Four Pillars of Stability**

WHAT IF?

Promoting educational and placement stability

Common Aspects of All Solutions

- **Communication**
- **Student's Rights Awareness**
- **Collaboration**



What if a child or youth does not have an ERH?

- Parents hold education rights unless court limits or terminates
- Court may also designate education rights holder(s)- JV-535 form
- Designation of a new ERH does not always mean limiting the existing ERH (“co-holder”)
- Qualifications: “responsible adult” known to the child and willing to serve



What if an immediate, emergency placement change needs to be made?

- Usually a result of a **recent court order**
- Requires **swift action** by all involved and **prompt follow-up**
- Attorneys can ask court to **order CSW to facilitate BID** with ERH and district Foster Youth Liaisons
- Attorneys/ERH can also conduct their own follow-up and facilitation
- Court can set **progress hearing** in near future to ensure compliance

What if a placement change occurs without a CFT or other consideration of BID or SOO rights?

- Placing agency **MUST** consider placement's **proximity to child's SOO** and attendance area when making placement decisions
- ERH should **immediately contact Foster Youth Liaison** of both SOO district and new resident district to explore solutions
- Attorneys or ERH can **file a JV-539 with court** and request a hearing to review decision
- At hearing, **placing agency must provide report** with information as to why placement in child's best interest
- Child is to **continue attending SOO** while waiting for resolution



What should youth, CWS/PO, minor's counsel, ERHs, etc. do related to education if the placement change is to a STRTP because a youth is in need intensive services?



- There is **no carve-out in Education Code for children in STRTPs** – they are protected by and entitled to the same education rights as everyone



- In the case of a placement change to an STRTP, the **local district and SOO district should still work with the ERH to come to an agreement about the best plan of support** for the student and next steps moving forward

What if other court orders appear to contradict SOO interests?

School stability is critical to setting children up for emotional and academic success. However, as is often the case, things can get complicated.

Examples:

- One sibling remains in their SOO but another prefers the placement's local school, or has a different school identified through an IEP.
- Placing with a relative, as opposed to in foster care, makes accessing a child's SOO impractical or difficult.
- Reunification with a parent is recommended weeks before the end of the school year.



What if other court orders appear to contradict SOO interests?



Solution:

All children are entitled to their own individual, unique SOO analysis when making decisions!

- Siblings can be differently situated; what is best for one may not be best for another.
- Our Education Code is predicated on the concept of access to a unique education for every individual child.

What if other court orders appear to contradict SOO interests?



Solution:

All children are entitled to their own individual, unique SOO analysis when making decisions!

- Likewise, CFTs and BIDs are designed to address situations like potential relative placement in a distant physical area.
- While the solution may not be perfect or simple, the process is designed to be inclusive and collaborative.
- It is on us to ensure this.

What if other court orders appear to contradict SOO interests?



Solution:

All children are entitled to their own individual, unique SOO analysis when making decisions!

- Finally, those involved with the child's well-being should work together to develop creative solutions in response to complicated issues.
- For example, in a case where return to a parent was recommended and ordered mere days before their child's week of final exams, the family worked together and the parent allowed the child to "visit" the relative caregiver while finishing the school year.

BID IMPLEMENTATION OVERVIEW

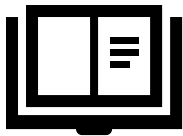
Public Records Act Request

Search for Best Practices



Public Records Act Request sent 1/11/19

- All 58 county Child Welfare (CW) and Probation Departments (PD) plus 10 School Districts (SD) with highest number of foster youth
- Grouped based on size/number of FY (from Dataquest and apply to CW only; not PD)
- Requested information for the past three years



Report on initial findings

- Continued review/evaluation
- Invitation to all agency partners to provide more information
- To get involved, contact Erin Black at E.Black@kids-alliance.org

How Many Agencies Have BID Tool/Process?

Child Welfare

- 45% (23/50)

Probation

- 5% (3/48)

School District

- 43% (3/7)



How Many Agencies Have BID Tool/Process?

Further Analysis

- Side by side analysis of BIDs to look at factors used to determine best interest, process for participation and convening, decision making, inclusion of all possible SOO, inclusion of transportation analysis, dispute resolution
- Comparison of CW and SD BID processes and cooperation (e.g., who initiates process)
- Requirement of ERH participation
- Complications re ERH when using models from other states
- Update Foster Youth Education Toolkit with best practices

How Many Agencies Have Their BID During a CFT/TDM?



Child Welfare

16% (8/50)

Probation

2% (1/48)

Special Notes:

- CFT or TDM policy must mention SOO or school stability in more than just a passing way
- No legal requirement that the BID be in this type of meeting

How many agencies provided data on # of youth whose ERHs determined it was in their best interests to remain/return to their SOO?

Child Welfare

18% (9/50)

Probation

17% (8/48)

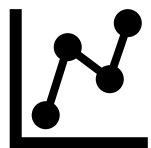


ERHs Determined SOO?

Further Analysis



- Look for improvements over time and best practices for implementation



- Comparisons to other data questions (e.g., home placement changes, school changes, youth with ERHs) to see if any agencies are doing good data collection across the board for systems improvement



- What is the best way to collect this data (e.g., number of ERHS involved in BID, ERHs who decide not to remain/return in SOO)?

How many agencies provided data on number of youth remaining in/returning to their S00?

Child Welfare

29% (15/50)

Probation

21% (10/48)

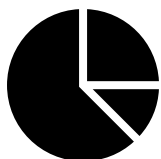


Data on Youth in SOO?

Further Analysis



- Compute % remaining/returning to SOO by year and look for growth



- Compare to how many BIDs were completed and how many home placement changes occurred



- Analyze data in relationship to ESSA plans and best practice agencies preventing placement changes/home finding

WHAT HAPPENS NEXT?

Supporting Educational and Placement Stability

Building on Efforts Supporting Educational and Placement Stability



- ***Building on Best Practices***
- ***Policy Changes***
- ***Legislative Changes***

Resources

Foster Youth Education Toolkit - https://kids-alliance.org/wp-content/uploads/2016/09/FosterYouthEducationToolkit_v3.pdf

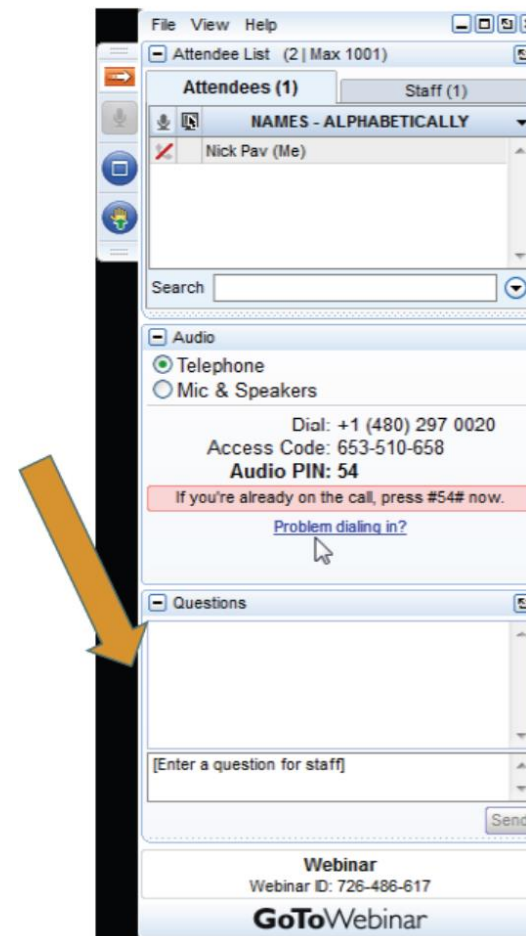
CDSS California Foster Youth Education Resource Hub - <http://www.cdss.ca.gov/inforesources/California-Foster-Youth-Education-Resource-Hub>

California Foster Youth Education Task Force Resources - <http://cfyETF.org/publications.html>



Questions

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