

ISSUE BRIEF



NOVEMBER | 2011

Achieving Educational Stability for Foster Youth in Ohio and the Impact of the Fostering Connections Legislation



The Challenge

The nearly 800,000 children placed in substitute care often face unique educational challenges.¹ Not only are they forced to deal with the trauma resulting from abuse and neglect, they must also confront many other barriers to school success: removal from their homes, separation from their families and friends, and multiple placements into temporary homes and new school environments.²

This issue brief will explore some of the barriers to educational stability that affect foster youth, and provide an overview of recent legislation that addresses these challenges. Then the brief will consider Ohio's performance in achieving educational stability, and it will analyze some of the major challenges that remain in the State. Finally, the brief will conclude by recommending that specific changes be made at both the state and federal levels.

Potentially an opportunity to implement many of the recommendations sought by the Children's Defense Fund-Ohio, the Senate Health, Education, Labor and Pensions Committee passed a bill to reform the federal "No Child Left Behind" law.³ The legislation included an amendment offered by Senator Al Franken (D-Minn.) that would impose new obligations on school districts similar to the obligations that child welfare agencies already have.⁴

School Performance Suffers

Foster youth are experiencing an educational crisis. A Midwest study found that more than one-third have repeated a grade, more than two-thirds have been suspended from school, and when compared to their peers, foster youth are nearly four times as likely to be expelled from school.⁵ They continue to remain far behind their peers

on state-administered assessment tests.⁶ Nearly half of former foster youth have not completed high school.⁷ Only 30% have attended college.⁸

Unfortunately, child welfare and education laws, policies, and practices share some of the responsibility for these poor outcomes. They have not always provided children who live in foster care with the educational stability necessary for successful adulthood.

School Mobility and Enrollment Issues are Barriers to Educational Stability

The persisting problems associated with school mobility and the effects they have on educational stability are being recognized by others across Ohio and the country. For example, philanthropists Al and Barbara Siemer have recently partnered with the United Way of Central Ohio to form a national institute that focuses on child mobility issues—the Siemer Institute for Family Stability.⁹ Over the past three years, the Columbus-based initiative has helped 525 families, with 1,112 children becoming and remaining stable.¹⁰ Building on this success, the Institute will lead the work of initiatives in ten Ohio and Florida communities that help families at risk of homelessness stay in their homes and keep children in their current schools.¹¹ While such civic leaders work to stabilize children in strong educational environments, the laws specifically affecting foster youth must do the same.

Current law does not go far enough in requiring child welfare and educational professionals to collaborate to avoid unnecessary school transfers for foster youth. According to the Midwest Study, over one-third of foster youth have experienced five or more school changes while in care.¹² School mobility is a major disruption to a child's education because it forces the child to adjust to a new school climate and curriculum.¹³ It also disrupts vital relationships with the



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child's peers and teachers.¹⁴ According to one study, frequently mobile students can suffer as much as a six month loss in educational progress.¹⁵

As if adapting to a new school is not difficult enough, foster youth also experience frequent enrollment delays. A youth may miss an entire month of school due to a foster care placement change.¹⁶ Delays are often the result of lost or misplaced school records.¹⁷ Since the majority of foster youth are forced to switch schools when placement changes occur, the fact that they cannot immediately start school is especially troubling.



Why Educational Stability Matters

Failing to meet the educational needs of foster youth today will lead to greater societal costs tomorrow. Studies indicate that nearly forty percent of former foster youth rely on community aid in the form of welfare, institutionalized care, and/or Medicaid.¹⁹ There is also a high likelihood that they will experience homelessness, incarceration, and unwed pregnancies.²⁰ Investing to meet the unique needs of youth while they are in foster care will provide them with the confidence and skills that will be necessary later in life. This investment will also decrease the cost to society overall.

“Investing in children is not a national luxury or a national choice. It's a national necessity. If the foundation of your house is crumbling, you don't say you can't afford to fix it while you're building astronomically expensive fences to protect it from outside enemies. The issue is not are we going to pay—it's are we going to pay now, up front, or are we going to pay a whole lot more later on.”

— Marian Wright Edelman, President and Founder of Children's Defense Fund

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (“FCA”)²¹

Signed into law in October 2008, the FCA contains some of the most significant federal reforms to child welfare in over ten years. The law promotes better outcomes for foster youth through policy changes in six key areas: 1) more support for kinship care, 2) more support for older youth, 3) coordinated health services, 4) improved educational stability and opportunities, 5) adoption incentives and assistance, and 6) direct access to federal resources for Indian Tribes.²² The changes are intended to ensure that no foster youth is forced out of care without being prepared for adulthood.²³

Ohio recently amended its Administrative Code (“OAC”) to implement the educational stability provisions of the FCA.²⁴ For the most part, the educational stability provisions have not led to significant changes in Ohio law. For example, as early as in 2004, the OAC already required new care settings to be close to the schools in which foster children are enrolled prior to placement.²⁵ Nonetheless, the FCA has initiated renewed efforts to achieve educational stability.

Educational Stability Requirements

The FCA's educational stability provisions have three main components. First, to remain eligible for federal foster care and adoption assistance funds, Ohio's public children services agencies (“PCSA”) must work to ensure that children in out-of-home care are enrolled in school.²⁶ Children must be full-time elementary or secondary school students if they have not already completed secondary school.²⁷ PCSAs can meet this requirement by enrolling children in

traditional school settings, as well as in home-school or independent study programs.²⁸ There is an exception for children who cannot attend school full-time due to a medical condition.²⁹ To take advantage of the exception, caseworkers must provide regular updates on the condition in the child's case plan.³⁰

The second educational stability component requires PCSAs to take into account a child's current educational setting before making a foster care placement.³¹ The agency must consider whether the current educational setting is appropriate, as well as how close it is to the proposed foster care placement.³² More importantly, PCSAs must attempt to keep the child enrolled in the same school.³³ Placement into foster care should not result in a school change unless enrollment in a new school is in the child's best interests.³⁴ When changing schools is in the child's best interests, the PCSA must work to arrange immediate enrollment in an appropriate school.³⁵ This will require agencies to work to ensure that the new school receives educational records without delay.³⁶

The third component relates to funding. PCSAs rely on federal funds to cover a portion of foster care maintenance costs.³⁷ They can now use the funds to cover the cost of transporting children to keep them in their original schools.³⁸ Reimbursement is only available for reasonable travel costs.³⁹ However, the cost of transportation cannot be a factor in school selection.⁴⁰ On the other hand, the availability of foster care resources can be a factor in a PCSA's placement decision.⁴¹ Therefore, if school transportation costs would be too expensive, the PCSA should ensure that it has identified an adequate number of suitable placement options. A child should not be moved outside of his school district due to minimal efforts to find suitable foster homes within the child's current district.

Documentation Requirements

PCSAs must document their efforts to comply with the educational stability provisions. A child's case plan must include documentation on the school that the child attended before foster care placement.⁴² If the child could not remain in that school, the caseworker must describe all efforts to keep the child in that school.⁴³ For example, a caseworker might describe unsuccessful attempts to locate a suitable placement near the child's current school. If he or she made no efforts, the caseworker must explain why remaining in the school was not in the child's best interests.⁴⁴ When a school change must occur, the caseworker must describe the steps taken to immediately enroll the child in a school that meets the child's needs.⁴⁵ If any school records are unavailable, the caseworker must explain why and indicate the steps being taken to obtain them.⁴⁶ A child's case plan must include documentation detailing

how the current educational setting meets the child's needs.⁴⁷

Making Decisions Regarding Placement and School Selection

The educational stability provisions give states a lot of flexibility and discretion.⁴⁸ States are free to determine which factors they will consider in making best interest determinations for school selection.⁴⁹ A decision on placement or school selection should result from a meaningful analysis. Agencies should develop a standard list of non-exhaustive factors to evaluate a variety of suitable placement options. It may not be possible to avoid a school change without considering more than one placement option. Of course, the reality is that for many children, it will be difficult to find even one suitable foster home. More than 5,000 children are placed outside of their counties each year in Ohio.⁵⁰

Consider a plausible scenario. An agency might place a Cincinnati child with relatives more than 200 miles away in Toledo, Ohio. The agency could ultimately decide that the relatives are the best⁵¹ or even the only placement option because, despite diligent recruitment efforts, there are no other suitable homes. Although the cost of transporting the child to keep him in his Cincinnati school might be unreasonable,⁵² that fact alone should not motivate the agency to move the child to a Toledo school.⁵³ Even so, the distance probably requires a school change. It will be difficult to argue that it is in any child's best interests to be on the road for more than seven hours on a school day. In order to justify moving the child to the Toledo home and school setting, the agency should document its unsuccessful attempts to locate other suitable foster homes closer to the Cincinnati school.⁵⁴ If other homes are found within the child's current school district, the agency should explain why the Toledo placement is the best option.

How is Ohio Performing?

While it is too soon to determine the impact of the FCA, which is still being implemented in Ohio, this section will explore a few statistics, laws, and practices indicating that Ohio foster youth may still be at risk of educational instability. For example, the fact that thousands of children must move into foster homes outside of their counties each year may indicate that thousands of foster youth are at risk.⁵⁵ Though there are some redeeming developments in the State, the numerous barriers that remain must be removed to provide stability for Ohio foster youth.

Youth in Care the Longest Have the Highest Risk of Educational Instability

Ohio's performance on permanency measures is highly relevant to its progress in achieving educational stability. Take, for instance, measures of placement stability, which focus on the number of moves that youth experience while in foster care.⁵⁶ Placement instability exists when too many youth experience multiple moves.⁵⁷ Since youth usually change schools when they change foster homes,⁵⁸ placement instability is often an indication of educational instability.

Youth in Care the Longest Have the Highest Risk of Educational Instability

The longer Ohio foster youth are in care, the more likely they are to be placed in multiple foster homes. Of the children in Ohio's foster care system for less than one year, over 90 percent have experienced no more than two placement settings.⁵⁹ Of those in the system for one to two years, less than two-thirds have experienced two placement settings or less; and among those who have been in care for more than two years, nearly two-thirds have experienced more than two placement settings.⁶⁰ The State has not met the federal benchmark for foster care placement stability regarding this last category of youth.⁶¹ Thus, youth who spend more than two years in Ohio's foster care system are at an increased risk of suffering from educational instability.



Educational stability is especially critical for foster youth who are in care the longest. More than forty percent of youth who spend three or more years in Ohio's foster care system age out of the system without a permanent family.⁶² Over 1,000 foster youth age out of care each year.⁶³ Typically, youth who age out have spent several years in foster care.⁶⁴ Since these youth lack adequate family supports, it is unacceptable to send them into early adulthood without the educational development that they need to support themselves.

“Educational Specialist” Programs May be Part of the Solution

To some extent, Ohio is doing more to achieve educational stability than what the FCA requires. For example, in at least some counties, PCSAs use programs that employ educational specialists to help meet the unique educational needs of foster youth.⁶⁵ Since each county in Ohio has a different way of handling child welfare, it is unclear exactly how many PCSAs use educational specialist models.⁶⁶ In at least one county, educational specialists meet as often as weekly with foster youth and their families and caregivers. They help the youth set and meet goals for school attendance, academic performance, and personal development; and they provide services to achieve those goals, including: individualized tutoring, rewards for achievement, advocacy in school meetings, and assistance in obtaining test preparation materials, transportation, clothing, uniforms, equipment, and school supplies.⁶⁷ Specialists in at least one county have attempted to track and supply educational data to PCSAs.⁶⁸

Formal educational specialist programs employ highly qualified personnel. Tutors are usually certified teachers, and the specialists are sometimes retired educational professionals.⁶⁹ Additionally, the programs produce excellent results. Counties that use them see significant improvement in grade point averages, school attendance, graduation rates, and grade levels.⁷⁰

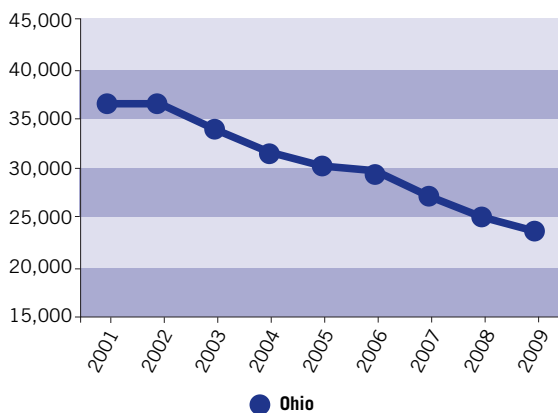
Nevertheless, not all counties use educational specialist programs, although some programs temporarily provide transitional services to youth who exit care or switch to non-participating school districts.⁷¹ Due to a lack of funding, some counties have been forced to end some or all of the services provided through their educational specialist programs.⁷² Furthermore, numerous institutional barriers exist, even for youth who are fortunate enough to receive services from these programs.⁷³

Placing Additional Obligations on Child Welfare Agencies Is Not Always the Solution

Perhaps the most glaring shortcoming of the FCA's educational stability requirements is that, for the most part, they merely place a few new obligations on child welfare agencies; but these obligations likely reflect what the agencies have always wanted to do. Nevertheless, child welfare agencies can only do so much to help foster youth achieve educational stability. Lack of available foster care resources may be a major limitation, particularly in Ohio. The State's financial "investment in child welfare is the lowest in the nation."⁷⁴ In the face of budget cuts, it has been very difficult to provide foster youth with necessary services,⁷⁵ especially in the forty-three Ohio counties that do not maintain children services levies.⁷⁶ Moreover, absent additional reforms, the institutional barriers that remain may be insurmountable. For example, state educational agencies may not feel obligated to help the State comply with the FCA's mandates.

Remaining Challenges to Educational Stability in Ohio

Despite renewed efforts, Ohio still has a long way to go in achieving educational stability for the nearly 23,000 children in foster care.⁷⁷ Many obstacles remain. In addition to a lack of foster care resources, Ohio school law and school districts' policies and practices limit what child welfare agencies can do to meet the educational needs of foster youth. The remainder of the brief will focus primarily on these hurdles to educational stability, followed by CDF-Ohio's recommendations on how to address these hurdles.



Children in Foster Care (Number) – 2001 to 2009

Children's Defense Fund-Ohio

KIDS COUNT Data Center, www.kidscount.org/datacenter

A Project of the Annie E. Casey Foundation

The Need for Better Collaboration and More Reasonable School Policies

Federal and state laws fail to ensure meaningful collaboration between child welfare and educational professionals. PCSA case-workers sometimes feel like outsiders when trying to reach out to school officials to meet the educational stability needs of foster youth.⁷⁸ They have expressed concern that educational policies and practices do not accommodate the unique needs of foster youth, and that educators' decisions may be motivated by the characteristically poor academic performance of foster youth.⁷⁹

For example, a problem reported by several PCSAs is that schools often refuse to allow a child to remain enrolled in the same school after he has been placed in a foster home located in another school district.⁸⁰ This has been a problem even when transportation is readily available and the child's family prefers that he stay in the same school.⁸¹ Due to the significant federal consequences that follow from a school's poor academic performance, school officials may prefer to have their districts pay tuition to other districts rather than take the risk that foster youth's academic performance might bring down their schools' report cards.⁸²

School officials' decisions are not easy to overcome. Child welfare agencies must sometimes obtain the assistance of district superintendents to override school principals' enrollment decisions.⁸³

When a PCSA must place a youth in a foster home located outside of his current school district, it is usually less challenging to enroll him in a new district than it is to keep him in the current one; but switching schools is not always an easy task.⁸⁴ Complying with the new school's enrollment policies is sometimes an issue.⁸⁵ Enrollment policies are typically very strict, but it can be difficult for PCSAs to timely obtain all necessary records from the old school.⁸⁶ While the new school may refuse to admit the youth prior to receiving all necessary records, neither school may feel obligated to help facilitate the prompt transfer of the foster youth's records.⁸⁷

Enrollment policies are not the only obstacles to keeping foster youth in school. School policies on discipline also fail to account for the unique needs of the children who end up in the child welfare system due to no fault of their own.⁸⁸ Too frequently, these policies result in suspension or expulsion.⁸⁹ "Zero tolerance" environments may be inappropriate for foster children because they often suffer from behavioral issues.⁹⁰ Suspension and expulsion not only cause children to miss school, they also make it difficult for them to receive academic credit. Schools do not always allow students to complete assignments during suspension.⁹¹

School Enrollment Laws Provide Protections to Similarly-Situated Youth

Surprisingly, Ohio foster youth do not receive the same solicitude that federal and state education laws give to other youth who are at risk of educational instability. This section will detail some of the protections provided to those other youth. A brief discussion of the law will demonstrate how foster youth are treated differently with respect to their educational rights.

Generally, an Ohio child has the right to attend school for free in the district in which his parent resides.⁹² Ohio law also provides for tuition-free schooling in a wide variety of situations in which children may need to leave their homes.⁹³ To name a few, homeless children, married minors, children in military families, and children whose parents are domestic violence victims all have the right to tuition-free education.⁹⁴

The protections provided to certain youth are often very detailed and specific. For example, a homeless student has the right to attend school in the district in which his shelter is located; or the student's parent may choose to keep him in the school that he attended when he became homeless.⁹⁵ If a new school is chosen, that school must immediately enroll the homeless youth, even if it has not received all normally required records.⁹⁶ Moreover, the school cannot simply wait for someone else to obtain the records. Instead, it must immediately contact the child's last school to obtain all relevant school records.⁹⁷

Each school district must also have an educational liaison to assist homeless students, and liaisons have a long list of duties under the McKinney-Vento Homeless Assistance Act (McKinney-Vento).⁹⁸ For example, the liaison must ensure that enrollment disputes are handled properly.⁹⁹ When there is an enrollment dispute, the child has the right to enroll in the school he has chosen, pending resolution of the dispute; and he has the right to appeal the school's ultimate decision after dispute resolution.¹⁰⁰ Ohio school district enrollment policies typically specify a homeless student's educational rights under McKinney-Vento.¹⁰¹

Children of domestic violence victims also have significant educational rights. They may not be denied enrollment in a new school due to missing records; and any days of attendance and credits earned must be transferred to and accepted by the child's subsequent school.¹⁰²

Inequitably, as the next section will demonstrate, Ohio school law does not give foster youth specific protections analogous to those that exist for other youth who are at risk of educational instability. Like homeless students and children of domestic violence victims, foster

youth also lack fixed home environments, making it difficult for them to comply with school enrollment policies.¹⁰³ Furthermore, similar to children of domestic violence victims, foster youth are subject to abusive home settings that make it difficult for them to adjust to school.¹⁰⁴ In fact, foster youth have often been direct victims of abuse.¹⁰⁵ Nevertheless, the barriers to educational stability that they face remain in place.

The Educational Rights of Ohio Foster Youth Are Uncertain

In some ways, Ohio school law is actually at odds with the educational stability mandates of the FCA. For example, under Ohio law, a foster youth may generally enroll only in the district in which his or her foster home is located.¹⁰⁶ So if a PCSA places a youth in a foster home outside of his school district, the youth may not be entitled to remain enrolled in the same school, even if the foster home is not very far away from that school. School officials are not legally obligated to follow the FCA's presumption that children remain enrolled in the same school.¹⁰⁷ Nor are they legally obligated to consider best interest determinations on the subject.¹⁰⁸ The FCA's provisions apply to child welfare agencies that rely on Title IV-E funds; but they do not necessarily apply to educational agencies, which usually depend on other funding sources.¹⁰⁹

While educational agencies are aware of the plight of foster youth,¹¹⁰ this awareness has not led to significant changes in the law. The Ohio Department of Education ("ODE") has issued guidance to local school districts on removing barriers to the enrollment, attendance,



and school success of homeless and highly mobile children;¹¹¹ and ODE has called for state and local agencies to develop, review, and revise policies to remove the barriers that highly mobile children, including foster youth, have experienced.¹¹² Nevertheless, state policy and guidance may be ineffective as long as the law does not require educational agencies to ensure educational stability for foster youth.

Other Avenues Sometimes Provide Temporary Solutions

Some foster youth may be able to benefit from laws that are meant to protect other categories of youth. For example, McKinney-Vento places direct obligations on educational agencies.¹¹³ However, its protections are intended for homeless children, so it does not necessarily apply to most foster youth.¹¹⁴ Whether a foster youth is covered by the law depends on the State's definition of "awaiting foster care placement."¹¹⁵ Ohio law does not define the term, and most Ohio school districts simply restate the term in their enrollment policies without a definition.¹¹⁶ For data purposes, ODE defines the term to cover a situation in which child welfare agencies are working to place a student.¹¹⁷ Thus, once a student has been placed into a foster home, school officials might reasonably decide that McKinney-Vento does not apply to that particular youth.

Another option for keeping a foster youth enrolled in the same school might be open enrollment.¹¹⁸ Nearly eighty percent of Ohio's school districts have some type of open enrollment policy.¹¹⁹ Nevertheless, the process for applying for open enrollment may vary by school district, and students are not guaranteed that they will be admitted under open enrollment.¹²⁰ Moreover, most of the districts in Ohio's two largest counties, Cuyahoga and Franklin, do not have open enrollment policies.¹²¹ A PCSA may also try to keep a child enrolled by obtaining the assistance of school superintendents, but like the open enrollment process, the student is not guaranteed enrollment through this avenue.¹²²

The Cost of Education Should Not Be Relevant to a Foster Youth's Educational Rights

Irrespective of the right to enroll, the cost of education may be a barrier to school admission for foster youth. School districts cannot typically charge tuition for students admitted to their schools.¹²³ However, tuition can become a very complicated legal and administrative issue for three types of children: 1) those who reside in a "home," 2) those in the custody of an agency or person other than their natural parents, and 3) those who receive special education.¹²⁴

Unfortunately, most foster children are likely to fall into one or more of these categories. First, a "home" is broadly defined as a facility,



including a foster home, which is approved or maintained by the State to receive and care for children.¹²⁵ Second, PCSAs almost always require some form of legal custody over children in order to place them in foster homes.¹²⁶ Finally, it is very common for foster children to receive special education.¹²⁷

Payment of school tuition can be a very important issue for school districts when foster youth attend their schools. Districts sometimes dispute who must bear the cost of educating foster youth.¹²⁸ The court that has ordered a child's removal from home must designate the school district that is financially responsible, as determined by division (C)(1) or (C)(2) of section 3313.64 of the Revised Code.¹²⁹ Generally, the responsible district is the one in which the child's parent resided at the time of removal.¹³⁰ However, if the parent moves to another district, ODE may require that district to pay tuition.¹³¹

School officials should be aware that the issue of payment for tuition is separate from the issue of whether a foster youth has the right to enroll. Section 3313.64(B) of the Ohio Revised Code provides the different bases for admitting children.¹³² In contrast, Section 3313.64(C) only determines when a school district is responsible for paying tuition for admitted children.¹³³ Since the collection of tuition is not a pre-condition for enrollment, schools should never delay or deny enrollment due to tuition considerations.¹³⁴ Not only would this violate state law, it would also unreasonably interfere with child welfare agencies' attempts to comply with the FCA.

Recommendations

Education laws and policies must be revised to account for the unique educational needs of foster youth. While the FCA requires educational stability, Ohio law does not require school officials to guarantee this right to foster youth. Laws that protect the rights of homeless students and the children of domestic violence victims may apply to some foster youth, but they do not apply to all youth in substitute care. Ohio school law does not clearly give foster youth the right to remain enrolled in the same school or the right to immediately enroll in a new school, regardless of the receipt of records. Nor does it require school officials to promptly transfer school records. Foster youth should not be denied these protections.

Ohio policymakers and child welfare and educational professionals must work together to comprehensively implement the FCA's educational stability provisions. Child welfare agencies cannot guarantee educational stability for foster youth without the cooperation of educational agencies. Therefore, the Children's Defense Fund-Ohio recommends that the Elementary and Secondary Education Act (ESEA) reauthorization include obligations for state and local educational agencies mirroring those that the FCA places on child welfare agencies.¹³⁵

The ESEA should include protections for foster youth similar to those provided to homeless youth by McKinney-Vento and Ohio law. For example, the ESEA should require educational agencies to collaborate and cooperate with child welfare agencies by establishing foster care liaisons. The liaisons would be required to ensure that schools are fulfilling their new obligations and that foster youth's protections are enforced. At a minimum, these protections must include:

- The right to remain in the school in which they are enrolled at the time of placement, unless that would not be in the child's best interests;
- A procedure to resolve disputes over what is in the child's best interests;
- Immediate enrollment in a new school when remaining in the original school is not in the child's best interests;
- Prompt transfer of the child's school records to the new school; and
- A shared responsibility, when necessary, with the child welfare agency for transportation to the child's original school.

The ESEA should also include a method for collecting data and tracking information in order to document progress on educational stability. The data collected should include key indicators such as the number of school changes experienced by foster youth and the number and duration of enrollment delays occurring after placement. Additionally, the ESEA should provide educational agencies with funding to assist them in comprehensively implementing the educational stability provisions. Furthermore, lawmakers must provide more funding to child welfare agencies. Without adequate funding, they cannot maintain special programs that meet the unique educational needs of foster youth. Through improved collaboration, shared obligations, and adequately-funded educational services, educational stability can be achieved for foster youth in Ohio.

Footnotes

- ¹ Children's Defense Fund, *The Need for Educational Stability for Children in Foster Care: Recommendations for the Elementary and Secondary Education Act Reauthorization*, available at <http://www.childrensdefense.org/child-researchdata-publications/the-need-for-educational-stability-for-children-in-fostercare.pdf> (last visited 11/30/2011) [hereinafter *The Need for Educational Stability*].
- ² *Id.*
- ³ Press Release, Franken.Senate.gov, *Senator Franken's Provisions to Reform "No Child Left Behind" Pass Key Hurdle* (Oct. 21, 2011) at http://www.franken.senate.gov/?p=press_release&id=1810 (last visited 11/30/2011).
- ⁴ *Id.*
- ⁵ Mark E. Courtney et al., Chapin Hall Center for Child, University of Chicago, *Midwest Evaluation of the Adult Functioning of Former Foster Youth: Conditions of Youth Preparing to Leave State Care*, at <http://www.chapinhall.org/research/report/midwest-evaluation-adult-functioning-former-foster-youth> (last visited 11/30/2011).
- ⁶ Mason Burley & Mina Halpern, Washington Institute for Public Policy, *Educational Attainment of Foster Youth: Achievement and Graduation Outcomes for Children in State Care*, at <http://www.wsipp.wa.gov/rptfiles/FCEDReport.pdf> (last visited 11/30/2011); Mason Burley, Washington Institute for Public Policy, *Educational Attainment of Foster Children: 2006 Results*, at <http://www.wsipp.wa.gov/rptfiles/08-03-3901.pdf> (last visited 11/30/2011).
- ⁷ Ronna Cook et al., Westat Inc., *A National Evaluation of the Title IV-E Foster Care Independent Living Programs for Youth: Phase 2 Final Report*, at <http://www.eric.ed.gov/PDFS/ED348599.pdf> (last visited 11/30/2011).
- ⁸ *Id.* at 4-13.
- ⁹ Siemer Inst. For Fam. Stability, <http://familystability.org>.
- ¹⁰ *Id.*
- ¹¹ *Id.*
- ¹² Courtney et al., *supra* note 5, at 42.
- ¹³ Judy A. Temple & Arthur J. Reynolds, *School Mobility and Achievement: Longitudinal Findings from an Urban Cohort*, 37 J. SCH. PSYCHOL. 355, 357 (1999).
- ¹⁴ *Id.*
- ¹⁵ *Id.* at 368.
- ¹⁶ Courtney et al., *supra* note 5, at 42.
- ¹⁷ Advocates for Children of New York, Inc., *Educational Neglect: The Delivery of Educational Services to Children in New York City's Foster Care System*, at <http://www.advocatesforchildren.org/pubs/2005/fostercare.pdf> (last visited 11/30/2011).
- ¹⁸ *Id.* at 3.
- ¹⁹ Cook et al., *supra* note 7, at 3-3.
- ²⁰ Courtney et al., *supra* note 5, at 3.
- ²¹ *Fostering Connections to Success and Increasing Adoptions Act of 2008*, Pub. L. No. 110-351, 122 Stat. 3949 (codified as amended in scattered sections of 42 U.S.C.).
- ²² The Fostering Connections Resource Center, Casey Fam. Programs, <http://www.fosteringconnections.org> (last visited Aug. 9, 2011).
- ²³ Children's Defense Fund, *Fostering Connections to Success and Increasing Adoptions Act*, at <http://www.childrensdefense.org/policy-priorities/child-welfare/fostering-connections> (last visited Aug. 9, 2011).
- ²⁴ Ohio Dept. Job & Fam. Serv., *Family, Children and Adult Services Manual Transmittal Letter No. 274*, Kinship Care & Fostering Connections (2011). HIO DEP'T.
- ²⁵ Ohio Admin. Code 5101:2-42-05(E)(3) (2011).
- ²⁶ *Id.* at 5101:2-47-01(C)(4), 5101:2-49-10(B).
- ²⁷ *Id.*
- ²⁸ *Id.*
- ²⁹ *Id.*
- ³⁰ *Id.*
- ³¹ *Id.* at 5101:2-38-08(D).
- ³² *Id.*
- ³³ *Id.*
- ³⁴ *Id.*
- ³⁵ *Id.*
- ³⁶ U.S. Dept. Health & Hum. Serv., Administration For Children and Families, Log No. ACyF-CB-PI-10-11, *Guidance on Fostering Connections to Success and Increasing Adoptions Act of 2008* (July 9, 2010).
- ³⁷ Ohio Admin. Code 5101:2-47-01(E) (2011).
- ³⁸ *Id.* at 5101:2-47-01(F)(9).
- ³⁹ *Id.*
- ⁴⁰ U.S. Dep't. Health & Hum. Serv., *supra* note 36.
- ⁴¹ *Id.*
- ⁴² Ohio Dept. Job & Fam. Serv., JFS 01443-I, *Instructions for Completing JFS 01443*, Child's Education and Health Information (Aug. 2010).
- ⁴³ *Id.*
- ⁴⁴ *Id.* The form does not define the term, "best interest." *Id.*
- ⁴⁵ *Id.*
- ⁴⁶ *Id.*
- ⁴⁷ *Id.*
- ⁴⁸ *Id.*
- ⁴⁹ *Id.*
- ⁵⁰ Public Children Services Association of Ohio (PCSAO) Factbook, 10th ed. (2011-2012).
- ⁵¹ See Ohio Admin. Code 5101:2-42-05(A), (B) (2011) (preferring relative placements over placements with non-relatives).
- ⁵² See *Id.* 5101:2-47-01(F)(9).
- ⁵³ See U.S. Dep't. Health & Hum. Serv., *supra* note 36.
- ⁵⁴ See *Id.* 5101:2-38-08(D).
- ⁵⁵ PCSAO, *supra* note 50 at 25.
- ⁵⁶ *Id.* at 20.
- ⁵⁷ See *Id.*
- ⁵⁸ Advocates for Children of New York, Inc., *supra* note 17 at 3.
- ⁵⁹ PCSAO, *supra* note 50 at 20.
- ⁶⁰ Ohio Dept. Job & Fam. Serv., HIO DEP'T. JOB & FAM. SERV., Office of Families and Children, Final Report Fy2005-2009
- ⁶¹ *Id.*
- ⁶² PCSAO, *supra* note 50 at 22
- ⁶³ *Id.*
- ⁶⁴ Marci McCoy-Roth et al, *Number of youth Aging Out of Foster Care Drops Below 28,000 in 2010*, Casey Fam. Programs, 3 (Aug. 10, 2011), at <http://www.fosteringconnections.org/tools/assets/files/Older-youth-brief-2011-Final.pdf> (last visited Aug. 9, 2011).
- ⁶⁵ Teleconference Interview with Crystal Ward Allen, Exec. Dir., PCSAO; Scott Britton, Assistant Dir., PCSAO; Patti-Jo Burtnett, Pub. Relations Manager, Lorain Cnty. Children Services; Patricia Harrelson, Manager of Policies and Improvement Initiatives, Lucas Cnty. Children Services; Kythryn Carr Hurd, Integrated Sys. of Care for Children & Families Dir., Franklin Cnty. Children Services; Louise Brown, Soc. Services Adm'r, Medina Cnty. Job and Family Services (Jul. 7, 2011) [hereinafter PCSAO Interview].
- ⁶⁶ *Id.*

- ⁶⁷ *Id.*
- ⁶⁸ *Id.*
- ⁶⁹ *Id.*
- ⁷⁰ *Id.*
- ⁷¹ *Id.*
- ⁷² *Id.*
- ⁷³ *Id.*
- ⁷⁴ PCSAO, *Success, Disappointment and the Horizon*, THE HEARTBEAT, 2011 Issue 2, at 1.
- ⁷⁵ *Id.*
- ⁷⁶ PCSAO, *supra* note 50 at 25
- ⁷⁷ The Annie E. Casey Foundation, Kids Count Data Center, <http://datacenter.kidscount.org>. (last visited Aug. 10, 2011).
- ⁷⁸ PCSAO Interview, *supra* note 65.
- ⁷⁹ *Id.*
- ⁸⁰ *Id.*
- ⁸¹ *Id.*
- ⁸² *Id.*; see No Child Left Behind Act of 2001, 20 U.S.C. § 6311(b)(2) (2006).
- ⁸³ PCSAO Interview, *supra* note 65.
- ⁸⁴ *Id.*
- ⁸⁵ *Id.*
- ⁸⁶ *Id.*
- ⁸⁷ *Id.*
- ⁸⁸ *Id.*
- ⁸⁹ *Id.*
- ⁹⁰ *Id.*
- ⁹¹ *Id.*
- ⁹² OHIO REV. CODE ANN. § 3313.64(B)(1), (C) (West 2011).
- ⁹³ *Id.* § 3313.64(F).
- ⁹⁴ *Id.*
- ⁹⁵ *Id.* § 3313.64(F)(13).
- ⁹⁶ McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11432(g)(3)(C) (2006).
- ⁹⁷ *Id.*
- ⁹⁸ See § 11432(g)(6) (2006).
- ⁹⁹ *Id.*
- ¹⁰⁰ § 11432(g)(3)(E).
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- ¹⁰³ The Need for Educational Stability, *supra* note 1 at 1.
- ¹⁰⁴ *Id.*
- ¹⁰⁵ *Id.*
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- ¹¹⁷ Ohio Dept. Educ., Chapter 2: *Reporting Student Data*, Fy 2011 ODE EMIS Manual, at <http://www.ode.state.oh.us> (last updated June 22, 2010).
- ¹¹⁸ Ohio Dept. Educ., Open Enrollment Listing, at <http://www.ode.state.oh.us> (last visited Aug. 13, 2011).
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- ¹²⁰ See Tiffin City Sch., *supra* note 101.
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- ¹²³ *Id.* § 3313.64(C), (F).
- ¹²⁴ *Id.* § 3313.64(B)(2),(C).
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- ¹²⁶ *Id.* §§ 3313.64(A)(2), 2151.011(B)(19).
- ¹²⁷ Courtney et al., *supra* note 5 at 40.
- ¹²⁸ See, *e.g.*, *In re Fetters*, No. CA97-08-022, 1998 WL 102997, at *1 (Ohio Ct. App. March 9, 1998).
- ¹²⁹ *Id.* § Ohio Rev. Code Ann. § 2151.362.
- ¹³⁰ *Id.* § 3313.64(C)(2)(a).
- ¹³¹ *Id.* § 3313.64(C)(2)(e); § 2151.362(A)(2).
- ¹³² State ex rel. Grosso v. Boardman Local Sch. Dist., 2009-Ohio-5080, 27 (App. Ct. Sept. 25, 2009).
- ¹³³ See *Id.* at 35, 63.
- ¹³⁴ *Id.* at 63.
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Acknowledgements

The Children's Defense Fund-Ohio thanks the following individuals for providing assistance leading to the production of this issue brief:

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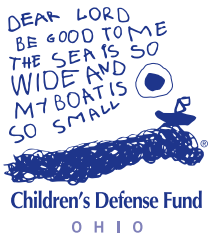
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CDF Mission Statement

The Children's Defense Fund Leave No Child Behind® mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities.

The Annie E. Casey Foundation provided funding for this publication.



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