Missouri
DEPARTMENT OF ELEMENTARY & SECONDARY
EDUCATION
Office of Special Education

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Foster Care Q&A
(From Webinar on May 14, 2012)

1. What statute or rule prohibits school district from delaying enrollment until prior school records are received?

There is no law, per se, prohibiting a school district from delaying enrollment. Enrollment decisions are made pursuant to the school district's interpretation of § 167.020, RSMo, the state's public school registration residency requirement. Section 167.020 requires public school districts to enroll students who meet residency requirements or who fall into one of the residency requirement exceptions, such as homelessness or placement in the district by an agency that serves children. Section 167.022, RSMo, addresses records request for placed pupils. It references § 167.020, which requires a public school to request a child's education records from the school the child previously attended within two (2) business days. A public school receiving the request has five (5) days to respond to the request. Section 167.020 can be found on the web at http://www.moga.mo.gov/statutes/C100-199/1670000020.HTM; section 167.022 can be found at http://www.moga.mo.gov/statutes/C100-199/1670000022.HTM.

Here's where it gets more complicated, maybe even confusing. Under § 167.018, RSMo, of the state Foster Care Education Bill of Rights, a public school is required to request school records of a student in foster care as provided for under § 167.022. The public school receiving the records request must submit the records within three (3) business days of receiving the request. Section 167.018 can be found at http://www.moga.mo.gov/statutes/C100-199/1670000018.HTM.

The federal McKinney-Vento Act requires homeless students to be enrolled immediately regardless of whether records can be obtained in a timely fashion. In Missouri, students who are awaiting foster care are considered homeless and would be covered under this act. The McKinney-Vento Homeless Assistance Act of 1987, as amended, Title VII, Subtitle B; 42 U.S.C. 11431-11435, can be found on the web at http://www2.ed.gov/programs/homeless/legislation.html

Governor Nixon approved House Bill 1577 on June 25, 2012. This legislation is an amendment to Section A. Chapter 160, RSMo and is designed to remove barriers faced by children in Foster Care due to frequent moves and transfers among school districts. The new section will be known as 160.1990. 160.1990 specifically addresses placement of the student in educational courses based on the student's enrollment in the sending school or educational assessments conducted at the sending school. It also defines terms and addresses extracurricular activities,

course prerequisites and graduation. House Bill 1577 can be found on the web at http://www.house.mo.gov/billtracking/bills121/biltxt/truly/HB1577T.htm

2. Would you please clarify the definition of "foster care" for the purpose of this bill?

The state defines foster care as a "form of substitute care, usually in a home licensed by a public agency, for children whose welfare requires that they be removed from their own homes."

3. Whose responsibility is it to sign things like consent for special education processes - the foster parent or the Division of Children and Family Services?

For special education purposes, the foster parent is the educational decision maker and would provide consent when it is necessary.

4. Where can we get more information on McKinney-Vento students?

For information on the McKinney-Vento, please visit our website at http://dese.mo.gov/qs/gr/homeless/

5. Are Educational Surrogates responsible for school enrollment during these transfer phases?

No, schools do not identify the need for a surrogate until after a child is enrolled.

6. If you have students that are not foster students but are being residentially placed in your district with legal guardians, with parents residing outside the district, who is responsible for transportation, and who is legally responsible for signing documentation? There is no court documentation in place or on file.

In these situations, the student could be considered an "unaccompanied youth", where the student is not in the physical custody of their parents, but also not in foster care, and without a legal guardian. The school enrolling students under these or similar circumstances will have to review each one on a case-by-case basis. In some cases a student in this circumstance may be considered homeless under the McKinney-Vento Act. To determine who would be responsible for transportation would require more information.

8. So it isn't both the Children's Division case worker (legal guardian) and foster parent both that have rights to sign paperwork.

For special education purposes, when a child has a foster parent the foster parent is the educational decision maker.

9. Wouldn't they be considered homeless if there is no legal paperwork?

It could be, however, each case would have to be reviewed on a case-by-case basis to make that determination.

10. Please clarify- will it be the Children's Division case manager as the guardian, or the foster parent completing the enrollment process?

When a child has a foster parent the foster parent would likely complete the enrollment process, but could be assisted by Children's Division personnel.

11. When youth change school districts because they are exited out of foster care, can records be expedited under the foster care bill? Within the 2 -5 day limit?

Sections 167.018 and 167.019, RSMo, make up the Foster Care Education Bill of Rights. Section 167.018 requires each public school district to designate a foster care liaison. It is the foster liaison's responsibility, in his/her advisory capacity, to ensure the proper transfer of student records, credits, and grades. As noted in the response to question 1, § 167.018 requires the public school requesting a foster child's education records to do so within two (2) days. The public school receiving the records request must submit the records within three (3) business days of receiving the request. Public schools have a responsibility to ensure these requirements are met.

There are things that school district personnel and Children's Division caseworkers can do to help expedite transfers. Case workers can inform school administrators of pending changes as soon as is possible so that school administrators can prepare student transcripts, IEPs, Evaluation Reports and other records required at transfer so they are ready to go. Schools can provide a copy to the child or the child's guardian so that they can be provided to the new school district at enrollment and keep a copy to send upon the formal request. The Family Education Rights and Privacy Act (FERPA) allows school districts to share this kind of information with other school districts in which a child enrolls or intends to enroll without obtaining consent for release of the information so the records could be sent before getting a formal request if it is known where to send them. School districts are expected to provide a

seamless transfer for children with IEPs and this is much easier to do when they have the IEP at enrollment.

12. Just verifying - in the case of a child that lives with grandparents/other relatives/even a friend - that parents have turned the child over to, but no legal process has taken placed, can the person with whom the child lives sign special education paperwork?

A child's parent is the child's educational decision maker. This is how the State Plan for Special Education defines *Parent:*

The term "parent" means a biological, adoptive, or foster parent of a child or a guardian generally authorized to make educational decisions for the child (but not the State if the child is a ward of the State), a person acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives; an individual who is legally responsible for the child's welfare; or, a surrogate parent who has been appointed.

Based on this definition, the person that a child lives with is considered to be acting in the place of a parent so can provide consent and participate in special education meetings and processes in most circumstances.

13. But if Children's Youth Services is involved, but again no court order placing them, just the parent is okaying the student to go live elsewhere outside of the home, would that still be an unaccompanied youth?

Not necessarily. Pursuant to § 167.020, RSMo, the school has a responsibility to review the student's circumstances for enrollment purposes.

14. What is the minimum amount of information needed to have any child begin classes?

It would depend on the student's living arrangements. If they are homeless, under McKinney-Vento they would not need any information other than contact information from a parent/guardian or the person that is responsible for the student. Under McKinney-Vento the lack of documentation should not impede the enrollment of the student.

If a child is not homeless then he or she must meet residency requirements or prove that residency requirements don't apply because of special circumstances in order to enroll.

15. When significant behaviors are present and/or a history of mental health problems, who is responsible for the direct mental health services? What is the role of the school?

If the child has an IEP, the IEP team is responsible for addressing behaviors that have an adverse impact on the education of the child. An IEP team can include services such as counseling through the IEP. Otherwise the school counselor, school social worker or school administrator should work with the parents, foster parents, guardian and/or others that provide services through public agencies like Children's Division to make sure that all parties know how to access community mental health services.

16. Are there any resources for transition planning for youth in Foster Care?

The following is a link to a transition planning resource available from the National Collaborative on Workforce and Disability entitled Negotiating the Curves Toward Employment: A Guide About Youth Involved in the Foster Care System. This document addresses the transition out of Foster Care and preparing youth to attain positive post-school outcomes.

http://www.ncwd-youth.info/negotiating-the-curves-toward-employment

General postsecondary transition planning resources for children with disabilities can be found on the web at http://dese.mo.gov/se/ep/Transition.htm