

**AMERICAN BAR ASSOCIATION****ADOPTED BY THE HOUSE OF DELEGATES****AUGUST 14-15, 2017****RESOLUTION**

RESOLVED, That the American Bar Association endorses the *Blueprint for Change: Education Success for Children in Foster Care (2007)* and the *Blueprint for Change: Education Success for Youth in the Juvenile Justice System (2016)* (collectively, the “Blueprints”), dated August 2017;

FURTHER RESOLVED, That the American Bar Association urges federal, state, territorial, tribal, and local legislatures, government agencies, and courts to adopt laws, regulations, policies, and court rules to implement the Blueprints;

FURTHER RESOLVED, That the American Bar Association urges attorneys, judges, and state, territorial, tribal, and local bar associations to support improvements in practices, program resources, and legal strategies to ensure educational stability and success consistent with the Blueprints.



**BLUEPRINT FOR CHANGE: EDUCATION SUCCESS FOR CHILDREN IN FOSTER CARE<sup>1</sup>**

*1. Youth are entitled to remain in their same school when feasible.*

1-A Youth's foster care placement decisions take school stability into account, and school stability is a priority whenever possible and in the child's best interests.

1-B Youth have sufficient foster home and permanent living options available in their home communities to reduce the need for school moves.

1-C When in their best interests, youth have a legal right to remain in the same school (school of origin) even when they move outside the school district, and schools that retain children are not financially penalized.

1-D Youth are entitled to necessary transportation to their school of origin, with responsibilities clearly designated for transportation costs.

1-E Youth have necessary support and information to make school of origin decisions; youth, birth parents, caseworkers, foster parents, courts, attorneys, schools, and educators are trained about legal entitlements and appeal and dispute procedures.

1-F Youth with disabilities continue in an appropriate education setting, regardless of changes in foster care placements, and transportation is provided in accordance with the youth's Individualized Education Program (IEP).

*2. Youth are guaranteed seamless transitions between schools and school districts when school moves occur.*

2-A Youth have a right to be enrolled immediately in a new school and to begin classes promptly.

2-B Youth can be enrolled in school by any person who has care or control of the child (i.e., caseworker or foster parent).

2-C Youth enrollment and delivery of appropriate services are not delayed due to school or record requirements (i.e., immunization records, birth certificates, school uniforms); designated child welfare, education, and court staff facilitate and coordinate transitions and receive training on special procedures.

2-D Youth education records are comprehensive and accurate, and promptly follow youth to any new school or placement; records are kept private and shared only with necessary individuals working with the youth.

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<sup>1</sup> Written in 2007. An electronic version of the Goals and Benchmarks is available here [http://fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntryId=1622&Command=Core\\_Download](http://fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntryId=1622&Command=Core_Download)

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2-E Youth who arrive in a new school during the school term are allowed to participate in all academic and extracurricular programs even if normal timelines have run or programs are full.

2-F Youth receive credit and partial credit for coursework completed at the prior school.

2-G Youth have the ability to receive a high school diploma even when they have attended multiple schools with varying graduation requirements.

2-H Eligible youth with disabilities receive the protections outlined in federal and state law, including timelines for evaluations, implementation of an Individualized Education Program (IEP) or an Individual Family Service Plan (IFSP), and placement in the least restrictive environment, even when they change school districts.

*3. Young children enter school ready to learn.*

3-A Young children have all the appropriate health interventions necessary, including enrollment in the Medical Assistance Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Program, and receive comprehensive evaluations and treatment.

3-B Young children are given special prioritization and treatment in early childhood programs (including Head Start, Early Headstart, and preschool programs).

3-C Young children receive developmentally appropriate counseling and supports in their early childhood programs with sensitivity to their abuse and neglect experiences.

3-D Young children have caretakers who have been provided information on the children's medical and developmental needs, and who have received training and support to be effective advocates.

3-E Children under age three with developmental delays, or a high probability of developing such delays, are identified as early as possible, promptly referred for evaluation for early intervention services, and promptly evaluated and served.

3-F Young children at high risk of developmental delays are screened appropriately and qualify for early intervention services whenever possible.

3-G Children under age three who have been involved in a substantiated case of child abuse and neglect, who have been identified as affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or who have experienced a substantiated case of trauma due to exposure to family violence are referred to the early intervention system for screening.

3-H Children with disabilities ages three to school age are referred and evaluated, and receive appropriate preschool early intervention programs.

*4. Youth have the opportunity and support to fully participate in all aspects of the school experience.*

4-A Youth are entitled and encouraged to participate in all aspects of the school experience, including academic programs, extracurricular activities, and social events, and are not excluded because of being in out-of-home care.

4-B Youth receive the additional supports necessary to be included in all aspects of the school experience.

4-C Youth's records relating to his or her education and needs are made available to necessary individuals working with the youth, while respecting the youth's privacy.

4-D Youth's appointments and court appearances are scheduled to minimize their impact on the child's education, and children are not penalized for school time or work missed because of court or child welfare case-related activities.

4-E Youth are not inappropriately placed in nonpublic schools or other alternative school settings, including schools for students with disabilities.

4-F Youth receive supports to improve performance on statewide achievement tests and other measures of academic success (such as attendance and graduation).

4-G Youth are surrounded by trained professionals that have the knowledge and skills to work with children who have experienced abuse and neglect; school curricula and programs utilize the research on trauma-informed care.

4-H Youth with disabilities are located, evaluated, and identified as eligible for special services.

4-I Youth with disabilities receive the special help they need to learn content appropriate to their grade level or, when that is not possible, the content that is appropriate to their learning level.

4-J Youth with disabilities receive their education in regular classrooms (with the necessary supports and accommodations) whenever possible.

*5. Youth have supports to prevent school dropout, truancy, and disciplinary actions.*

5-A Youth are not disproportionately subjected to school discipline or school exclusion, and are not placed in alternative schools for disruptive students as a means to address truancy or as a disciplinary measure.

5-B Youth have access to school counselors and other school staff familiar with the needs of children who have experienced abuse and neglect, and the staff has mastered effective remediation strategies.

5-C Youth have advocates at school disciplinary and other proceedings who are trained on procedures related to dropout, truancy, and discipline.

5-D Youth at risk of truancy or dropping out have access to programs and supports designed to engage them in school.

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5-E Youth who have dropped out of school have access to programs and supports designed to reintegrate them into a school or a General Educational Development (GED) program.

5-F Youth with disabilities have behavior intervention plans in place to minimize inappropriate school behaviors and to reduce the need for disciplinary action or referral to the police.

5-G Youth with disabilities receive the procedural protections outlined in federal law so that they are not punished for behavior that is a symptom of their disability

*6. Youth are involved and engaged in all aspects of their education and educational planning and are empowered to be advocates for their education's needs and pursuits.*

6-A Youth are routinely asked about their educational preferences and needs, including their view on whether to change schools when their living situation changes.

6-B Youth receive training about their educational rights commensurate to their age and developmental abilities.

6-C Youth are given the opportunity to participate in court proceedings, and their engagement is supported with transportation and accommodations to decrease the impact on school attendance and schoolwork; attorneys, guardians ad litem, CASAs, and judges are trained on involving youth in court, and encourage youth participation.

6-D Youth participate in school and child welfare meetings and planning about their education and their future.

6-E Youth are surrounded by school and child welfare professionals with appropriate training and strategies to engage youth in education planning.

6-F Youth with disabilities actively participate in the special education process, especially in transition planning for post-school education and employment, and are provided with the supports necessary to effectively participate.

*7. Youth have an adult who is invested in his or her education during and after his or her time in out-of-home care.*

7-A Youth are entitled to have a knowledgeable and trained education advocate who reinforces the value of the youth's investment in education and helps the youth plan for post-school training, employment, or college; efforts must be made to recruit appropriate individuals (i.e., foster parents, birth parents, child welfare caseworkers, teachers, and guidance counselors).

7-B Youth exiting care (because of age or because their permanency objectives have been reached) have significant connections to at least one adult to help the youth continue education pursuits.

7-C Youth have an education decision maker at all times during a child welfare case, who is trained in the legal requirements relating to education decisions for children with and without disabilities.

7-D Youth with disabilities who are eligible for the appointment of a surrogate parent have access to a pool of qualified, independent, and well-trained individuals who can serve in that role, and are assigned a surrogate in a timely manner, but no later than 30 days after a determination that a surrogate is needed.

*8. Youth have supports to enter into, and complete, postsecondary education.*

8-A Youth are exposed to postsecondary education opportunities, and receive academic support to achieve their future education goals.

8-B Youth in care and youth who have exited care (because of age or because their permanency objectives have been reached) have financial support or tuition fee waivers to help them afford postsecondary education.

8-C Youth have clear information and concrete help with obtaining and completing admission and financial aid documents.

8-D Youth have access to housing during postsecondary school vacations or other times when school housing is unavailable.

8-E Youth over 18 can remain in care and under the courts' jurisdiction to receive support and protection while pursuing postsecondary education.

8-F Youth have access to academic, social, and emotional supports during, and through completion of, their postsecondary education.

8-G Youth with disabilities pursuing higher education goals receive the supports to which they are entitled to under federal and state laws.

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## **BLUEPRINT FOR CHANGE: EDUCATION SUCCESS FOR CHILDREN IN THE JUVENILE JUSTICE SYSTEM<sup>2</sup>**

*1. Youth are empowered and engaged to make decisions about their own education and future.*

1.1 - Youth receive full information about educational opportunities available to them, and are regularly asked about their educational preferences and needs. Youth preferences, strengths, and needs are central to curricular and placement determinations.

1.2 - Youth receive training about their educational rights including due process and special education rights, and self-advocacy.

1.3 - Youth participate in school and juvenile justice system meetings about their education and future.

1.4 - Youth are given an opportunity to participate in court proceedings; courts and attorneys are trained on involving youth in court and in asking questions about educational interests, goals, and progress.

1.5 - Youth are supported by school and juvenile justice professionals with appropriate knowledge and training who engage youth in education planning.

1.6 - Youth opinions and wishes are prioritized in determining their educational decision maker, placement, educational goals and program, and post-secondary decisions, including living and school placement upon release.

1.7 - Youth with disabilities actively participate in special education meetings, the development of their Individualized Education Programs (IEPs) including transition planning, and receive the support they need to be self-advocates.

1.8 - Youth who are English language learners and/or limited English proficient receive the supports they need to be effective self-advocates for their educational needs.

*2. Youth have at least one adult who is invested in their education, before, during, and after involvement in the juvenile justice system.*

2.1 - Youth are supported by parents who are engaged and have received information and training about educational rights, special education law, and advocacy sufficient to maintain their engagement.

2.2 - When a youth's parent is available but requires supports to fully engage in education advocacy, the juvenile justice system and other stakeholders collaborate to provide access and support to the parent in order to build capacity and best serve the youth.

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<sup>2</sup> Written in 2016. An electronic version of the Goals and Benchmarks is available here [www.jjeducationblueprint.org](http://www.jjeducationblueprint.org).



2.3 - When the parent is not available to participate in the youth's education, even with supports for the parent, another legally-authorized education decision-maker is identified for the youth. All youth without an available parent, not just those with identified disabilities, are appointed an education decision-maker. The youth's preference for an alternate education decision-maker, including other family members, is solicited and prioritized. If a family member is not available or appropriate, youth have access to a pool of qualified, independent, and well-trained individuals who speak the youth's native language who can serve in this role and be timely appointed, and in compliance with the IDEA if applicable.

2.4 - Youth are engaged by staff sensitive to and supportive of the cultural and ethnic background of youth and their family.

2.5 - All youth, including youth with disabilities, youth of color, LBGQT and gender non-conforming youth, and youth who are English language learners or limited English proficient, have mentors who are culturally competent to empower and support them and understand their strengths and unique barriers to educational success.

2.6 - Youth's parents who are limited-English proficient receive information about their children's education in their native language, including all information needed to advocate on behalf of their children.

2.7 - Youth are supported by trained professionals, including school staff, behavioral health staff, judges, defense counsel, case managers, Juvenile Probation Officers, child welfare workers, and facility staff, to gain access to high-quality education and career/technical programs. Youth receive assistance from interagency liaisons and/or transition specialists who get to know the youth and forge an ongoing relationship.

2.8 - Youth attend schools, including placement schools, that engage parents and families, and rely on parents/guardians as education decision-makers, including ensuring that parents or other legally authorized decision-makers make decisions with regard to a youth's special education needs.

2.9 - Youth have access to legal representatives trained to identify and respond to education issues in juvenile justice cases, school disciplinary hearings, and special education matters.

2.10 - Youth appear before judges who consider their desires and educational needs in crafting dispositions and ordering placements, address education issues in depth at all review hearings,, and consider the quality and consequences of education available in the juvenile justice placement in all decisions while maintaining the youth at home and in community schools wherever possible.

*3. After being charged or adjudicated delinquent, youth remain in the same community school whenever feasible or enroll in a new community school.*

3.1 - Youth remain in the same school unless an out-of-home placement is necessary for the rehabilitation and/or safety of the youth, or the youth's decision-maker, in consultation with the youth, recommends a change in school placement, and the judge, placing agency and

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youth/family determine the student should be placed in a different school district or school placement.

3.2 - Youth remain at home and in their local public schools for truancy or other status offenses, with needed interventions and supports, rather than being placed in juvenile justice placements and on-grounds schools or being transferred to alternative disciplinary schools.

3.3 – Youth of color are not subject to and negatively impacted by racial bias because individuals involved in youth’s placement are vigilant about identifying and correcting bias that leads to disproportionate out-of-home placement of students of color, and agencies and organizations collecting data on disproportionality, and enacting appropriate corrective policies when disparities are identified.

3.4 - Youth with disabilities are placed in the least restrictive, most inclusive school environment that can meet their individual needs.

3.5 – When out of home placement is necessary and used as a last resort, youth are placed close to home, taking into account distance and the ability of the youth to continue at the current school.

3.6 - Youth in placement are afforded the opportunity to continue to attend their home school or attend the local public school close to the placement (as opposed to an on-grounds program).

3.7 - Youth are not referred to alternative disciplinary schools or otherwise pushed out of school due to juvenile justice involvement.

3.8 - Youth are not held in detention awaiting appropriate community education programs.

*4. Youth involved in the juvenile justice system who are educated in the community receive access to the full range of educational opportunities and supports.*

4.1 - Youth participate in the full school experience, and are not excluded from extra-curricular or recreational activities due to juvenile justice system involvement, conditions of probation, or electronic monitoring.

4.2 - All youth – in local schools, alternative disciplinary schools, or during disciplinary exclusion – receive access to adequate education that meets their educational needs and provides a full array of educational opportunities.

4.3 - Youth receive needed academic and non-academic supports, including access to remedial programs, credit recovery, counseling and behavioral health services, gifted and talented education, career and technical programs, and job exploration opportunities.

4.4 - All youth feel safe, empowered, and free from discrimination on the basis of race, ethnicity, marital or parental status, religion, disability, HIV status, sexual orientation, gender identity or gender expression. If a school has sex-segregated activities such as gym class, health class, or extra-curricular sports, or facilities such as bathrooms or locker rooms, youth are permitted to participate in activities, programs and facilities consistent with their gender identity.

4.5 - Youth with disabilities receive the specially designed instruction, targeted interventions, services, and accommodations they need to make meaningful progress in the least restrictive environment.

4.6 - Youth who are English language learners and/or limited English proficient receive effective ESOL instruction and the modifications to curriculum and instruction to which they are legally entitled, and they and their families receive legally mandated interpretation and translation services.

4.7 - Youths' appointments and court appearances are scheduled to minimize their impact on the child's education, and youth are not penalized for missing school or work because of court or juvenile justice case-related activities.

4.8 - Youth are not subject to blanket education-related terms of probation that fail to take into account the youth's individualized education needs and traumatic experiences. Education matters – attendance, engagement with school, homework – should not be addressed by the probation system but rather by the school, service providers, and caregivers/family.

4.9 - Youth receive full due process before any exclusion from school or placement in a restrictive setting, including meaningful manifestation determination reviews for youth with disabilities to determine if the youth's conduct is related to or the result of a disability or the failure to follow the youth's IEP, and includes an assessment of the student's mental or behavioral health condition that may contribute to behavior, a functional behavioral assessment and the development of or revision to a youth's positive behavior support plan.

4.10 – Youth are not subject to school policies and administration of school discipline that disproportionately impact youth of color.

4.11 - Students receive sufficient information to understand all policies and practices related to school discipline and their substantive and procedural rights.

*5. Youth in juvenile justice placements are provided with a high quality educational experience.*

5.1 - Upon arrival at all juvenile justice placements, a youth's educational needs and levels are assessed, with input from the youth and parents or other authorized education decision-maker.

5.2 - Youth are assessed for special education needs early on, referred for an initial evaluation where necessary, provided with an immediate temporary IEP where necessary, and a comprehensive IEP is developed and implemented.

5.3 - Youth are offered programs and instructional services that are responsive to their individual needs and free from racial or other bias.

5.4 - Home school records are transferred immediately, both at the beginning of placement and at any point of transfer or exit from juvenile justice placement, and a student's participation in individualized education services are never delayed because school records have not yet been received.

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5.5 - Youth in placement schools are provided with high quality academics and the same state-aligned curriculum and instructional time as would be provided in traditional public schools. Short-term detention facilities work in collaboration with local school districts to provide educational modules or other approaches to keep young people on track with their home schools.

5.6 - Youth with disabilities receive a free appropriate public education in the least restrictive environment, including needed special education and related services, transition planning and other supports through meaningful IEPs that are timely updated; developed with parent/family and youth input; and reflect the full range of services, accommodations and modifications necessary for academic progress.

5.7 - Youth who are English language learners and/or limited English proficient receive the interventions and support they need while attending school in placement, including ESOL instruction, modifications to curriculum and instruction, and access to translation and interpretation services as required by law.

5.8 - Youth are taught by qualified teachers (including special education teachers when applicable) who are properly certified, trained and permanently assigned to a placement and able to provide consistent instruction. Youth who receive instruction online or through a computer program are also supported by “live” certified and trained teachers.

5.9 - Youth receive all needed educational supports in placement schools, including intensive research-based remedial education and targeted literacy support, credit recovery, access to AP or IB courses and gifted education.

5.10 - Youth receive year-round educational programs when in placement school settings. Youth are not denied meaningful education services due to disciplinary consequences.

5.11 - Youth in juvenile justice placements have access to technology, including the internet, in order to complete educational assignments and academic activities.

*6. Youth in juvenile justice placements are educated in a supportive, positive school environment where they feel safe and empowered.*

6.1 - Youth attend schools free from discrimination based on race, sex, sexual orientation, gender presentation, national origin, language, disability or other characteristics and are educated in facilities that engage in data analysis and independent review to survey youth and assess programs to identify concerns of and bias.

6.2 - Youth are taught by staff who are trained in culturally competent, gender responsive, trauma-informed, strengths based and developmentally appropriate responses to behavior.

6.3 - Youth are informed of the grievance or complaint procedure in any placement and are informed of their education rights. Youth are provided meaningful access to utilize the grievance process, even during a restrictive disciplinary placement like solitary confinement.

6.4 - Youth with disabilities are educated in a welcoming environment and are not segregated or excluded based on their disability or behavior that is a manifestation of their disability. Youth

with disabilities receive appropriate interventions to address any behavior that interferes with their access to special education, whether a manifestation of their disability or not.

6.5 - Youth have access to comprehensive, supportive mental health services and school staff are educated and informed about each youth's unique needs and the appropriate educational approaches for those needs.

6.6 - Youth have access to comprehensive sexual health education that is inclusive of LGBTQ sexual health needs.

6.7 - Youth who are learning English are educated in a welcoming environment and receive access to the full range of educational programming offered to native English speakers.

6.8 - Youth are not segregated or discriminated against in a school setting for their sexual orientation, gender identity or expression. Youth identifying as LGBTQ/GNC receive support and interventions by teachers trained to be culturally competent to issues facing LGBTQ/GNC youth including that they are at higher risk for attempting suicide, experiencing suicidal thoughts or engaging in self harm than straight cisgender youth.

6.9 - Youth in placement schools receive positive disciplinary responses that do not rely on restraints of any kind or duration, solitary confinement, or other punitive interventions.

6.10 - Youth are not denied education either as a punishment for misconduct outside the school setting, or because of correctional placements such as solitary confinement.

6.11 - Youth are provided meaningful and thorough due process protections before any exclusion from school, including meaningful manifestation reviews for youth with disabilities to ensure that they are not punished for conduct relating to their disability or the school's failure to follow their IEP.

6.12 - Youth in placement schools have regular meaningful family and community visits. Placement schools engage and involve parents in their child's education.

*7. Youth have access to high quality career pathways programs, especially in juvenile justice placements.*

7.1 - Youth, including those in placement, receive meaningful career exploration, career planning, guidance and job training services as well as comprehensive social emotional and "21<sup>st</sup> Century" skills to identify, obtain, and sustain employment.

7.2 - Youth, including those in placement, have access to career/ technical education programs that offer industry-recognized credentials and certificates.

7.3 - Youth have equal access to career/technical education programs regardless of gender.

7.4 - Youth, including those in placement, have access to literacy and other academic programming that is fully integrated with career/technical education.

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7.5 - Youth have access to their own employability documents (including social security card, birth certificate, resume).

7.6 - While in placement, youth are able to participate in internships and jobs in the placement and/or community.

7.7 - Youth with disabilities in juvenile justice placements are fully integrated and allowed full access to career pathways and career/technical education programs, with appropriate accommodations.

7.8 - Youth over age 16 (ideally 14) in juvenile justice placements receive thorough transition planning services that build on their identified strengths and interests, including, when applicable appropriate services and supports as required under the IDEA.

7.9 - Youth who are English Language Learners or limited English proficient receive the interpretation and translation services, ESOL instruction and modifications in career/technical education programs and equal access to employment opportunities to which they are entitled under federal and state law.

*8. Youth receive supports to prepare for, enter, and complete postsecondary education and training.*

8.1 - Youth are exposed early to postsecondary education opportunities, receive academic and other support to achieve their future education goals, and are supported by a culture that reinforces their ability to attend and succeed in higher education or training.

8.2 - Youth working toward a high school diploma have access to dual enrollment programs.

8.3 - Youth with high school diplomas or high school equivalency degrees have access to a variety of post-secondary education or training, including while attending education programs in juvenile justice placements.

8.4 - Youth are educated about their rights and availability of financial aid, and receive assistance with application for Pell Grants and other funding for higher education.

8.5 - Youth receive clear information and concrete help with obtaining and completing admission and financial aid documents.

8.6 - Youth receive support to expunge juvenile or adult records and advice on how to answer admission and job interview questions, so juvenile or criminal involvement does not foreclose post-secondary education options and access.

8.7 - Youth have access to optional peer groups, tutoring, and other supports for youth with juvenile justice involvement in higher education institutions.

8.8 - Youth who have drug-related convictions receive individualized support for navigating federal financial aid processes, including support in locating, enrolling in, and completing an approved drug rehabilitation program.

*9. Youth have smooth transitions between home schools and schools in juvenile justice placements and receive effective reentry planning and supports.*

9.1 - Youth receive robust education planning upon entering any juvenile justice placement – whether short- or long-term – to ensure continuation of their then-current credit-bearing coursework and career/technical training program.

9.2 - Youth receive re-entry planning from the moment they enter a juvenile justice placement, including planning relating to academic and career/technical education.

9.3 - Youths' education records are comprehensive and accurate.

9.4 - Records promptly follow youth to any new school or placement, are kept private and are shared only with necessary individuals working with the youth. There are short and definitive timeframes set for record transfers and lack of records or a delay in receipt of records do not bar a student from enrolling in school (either in a placement school or a school in the community).

9.5 - Whether in a short- or long-term placement, youth have trained transition coordinators and multi-disciplinary transition teams to help them re-enroll in their next school and obtain needed supports before and upon reentry. The transition coordinator ensures that youth receive appropriate school programming when transitioning between school settings, sit for appropriate exams, obtain a transcript reflecting credits awarded and academic mastery, and register for appropriate coursework.

9.6 - Youth receive full or partial credit for coursework completed in prior school, or credit waivers for electives not required by state law, and youths' credits promptly transfer to a school or juvenile justice placement.

9.7 - Youths' career/technical competencies and credentials are passed along to the subsequent school, which takes into account the youth's career interests and experience in making curricular and school placement decisions.

9.8 - Youth required to change schools because of juvenile justice involvement are allowed to participate in all academic, career/technical, and extracurricular programs upon reentry even if normal timelines have run or programs are full.

9.9 - Youth are not barred from enrolling in school for a high school diploma even if they obtained their high school equivalency while in placement.

9.10 - Youth are involved in an assessment of whether to return to their original school, and if it is not safe or appropriate for a student to return to their school of origin, placement staff assist with options and procedures to transfer to another school in the community.

9.11 - Youth are immediately enrolled in an appropriate school or job training program after leaving a juvenile justice placement, with a right to return to their school of origin, and are not placed automatically in alternative disciplinary programs nor automatically placed in a cyber education program.

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9.12 - Youth with juvenile records are allowed equal access to neighborhood public schools, specific school programs, special admittance (e.g. “magnet”), and charter schools. Facility staff help youth complete school applications for the following year.

9.13 - Youth re-entering the community have access to credit-bearing coursework, career/technical education, job training and other career pathways programs, with needed accommodation and supports.

9.14 - Youth have a right to be enrolled in school and begin classes immediately and promptly receive all services required by IDEA or Section 504 when eligible.

9.15 - Youth have the ability to receive a high school diploma when they satisfy mandatory state requirements even when they have attended multiple schools with varying local graduation requirements.

9.16 - For students with IEPs, students’ progress and continued need for intensive academic remediation post-release is documented and the school district provides these services post-release.

9.17 - Youth in detention or whose placement time is intended to be short remain enrolled in their home school.

*10. All marginalized youth – and particularly youth of color, youth with disabilities, girls, LGBTQ youth, gender non-conforming and transgender youth, English Language Learners, youth who are involved with both child welfare and juvenile justice systems, and those with intersectional identities – are educated in their home schools rather than being disproportionately assigned to juvenile justice placements, and receive the services, support and protections they need to address their unique barriers to education success.*

10.1 Youth of color are offered programs and instruction free from racial or ethnic bias and individuals involved in youth’s placement are vigilant about identifying and correcting bias that leads to disproportionate out of home placement of students of color.

10.2. Youth identifying as LGB/TGNC, at particular risk for attempting suicide or engaging in self harm, are not punished with segregation or isolation that is harmful to their mental health and excludes them from educational opportunities.



## REPORT

### INTRODUCTION

The American Bar Association is committed to supporting the educational needs of court involved children and youth, including those in the foster care and/or juvenile justice systems, and urges the prompt support and endorsement of the goals and benchmarks outlined in the two existing *Blueprint for Change* frameworks, created to comprehensively outline what is needed for court involved youth to experience educational success.

#### **Promoting education for at risk youth**

Nationally, 82% of high school students graduate within four years.<sup>3</sup> It is commonly accepted that this number hides significantly lower rates for certain subgroups, including minorities, students with disabilities, and students who identify as LGBTQ. The Blueprints promote best practices for two vulnerable and frequently forgotten student populations: youth who are in the foster care and/or juvenile justice systems.

Education has long been viewed as an equalizer and a gateway to success. Yet court-involved youth are at risk for significantly worse educational outcomes than their peers due to unique circumstances and barriers that arise from agency and court involvement. The Blueprints provide a framework with comprehensive goals and benchmarks to improve educational access, stability, and success for court-involved youth, for the ABA to endorse and promote.

#### **Legal Center for Foster Care & Education**

In 2007, the ABA Center on Children and the Law, in partnership with the Education Law Center and Juvenile Law Center, recognized a gap in serving the educational needs of children in foster care. In response, experts from each organization formed the Legal Center for Foster Care & Education (Legal Center FCE) and developed the *Blueprint for Change: Education Success for Children in Foster Care* (“Foster Care Blueprint”). The Foster Care Blueprint identifies eight Goals for achieving educational success and is written from a youth’s perspective. Each Goal is broken down into Benchmarks, providing an easy to follow framework that ensures access to education, promotes stability and inclusion, and helps the youth prepare for higher education and the workforce. The Foster Care Blueprint’s website serves as a database with examples, fact sheets, templates, and checklists from school systems across the country. Using the fifty-six Benchmarks in the Foster Care Blueprint, the Legal Center FCE has successfully assisted programs across the country to change policies and practices to support educational success.

#### **Legal Center for Youth Justice and Education**

Recognizing a similar educational need for youth in the juvenile justice system, the Southern Poverty Law Center, Juvenile Law Center, Education Law Center, and the ABA Center on Children and the Law formed the Legal Center for Youth Justice and Education (LCYJE) in 2016. LCYJE produced its own *Blueprint for Change: Education Success for Youth in the Juvenile*

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<sup>3</sup> Public High School Graduation Rates for 2013-2014 school year, National Center for Education Statistics [https://nces.ed.gov/programs/coe/indicator\\_coi.asp](https://nces.ed.gov/programs/coe/indicator_coi.asp).

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*Justice System* (“JJ Blueprint”). The JJ Blueprint has ten Goals and 96 Benchmarks, creating a framework for courts, schools, and child welfare agencies to follow. Together, the two Blueprints recognize the urgent need to improve education for youth that are part of the foster care and/or juvenile justice systems. They address common barriers these youth face, and can serve as a guide for policy and practice reforms.

## YOUTH AT RISK FOR EDUCATIONAL FAILURE

### Youth in the Foster Care System

Approximately 400,000 youth are in foster care on any day in the United States.<sup>4</sup> Almost a quarter of a million are school age, but that does not guarantee that they are in school. Foster care youth move frequently, and are twice as likely as their peers to miss days of school.<sup>5</sup> More than half of foster care youth change school when they are placed in foster care,<sup>6</sup> and the average child changes placements 2.8 times,<sup>7</sup> which may necessitate further school changes. Foster care students are more likely to be held back a grade and be older than their classmates, both predictors for dropping out.<sup>8</sup> In Colorado, foster care students have four year high school graduation rates that are half that of the state average of 77.3%, and far below the rates of students in other at risk subgroups.<sup>9</sup> Nationally, half of foster care youth complete high school, one in five begin college, and only 3% graduate from college with a bachelor’s degree.<sup>10</sup> Eighty-four percent of foster care youth ages 17-18 want to attend college, but a number of roadblocks stand in their way.<sup>11</sup>

### Youth in the Juvenile Justice System

Each year, approximately 1.1 million youth are called into juvenile court.<sup>12</sup> This includes acts of delinquency, criminal acts committed by a minor, and status offenses, acts that are only offenses because of the youth’s age.<sup>13</sup> Ten percent of cases, impacting 109,000 youth, are status offenses

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<sup>4</sup> *Trends in Foster Care and Adoption: FY 2005-2014*, U.S. Department of Health and Human Services, Children’s Bureau. [http://www.acf.hhs.gov/sites/default/files/cb/trends\\_fostercare\\_adoption2014.pdf](http://www.acf.hhs.gov/sites/default/files/cb/trends_fostercare_adoption2014.pdf).

<sup>5</sup> *Fostering Success in Education: National Factsheet on the Educational Outcomes of Children in Foster Care*, National Working Group on Foster Care and Education, January 2014. <https://goo.gl/6rk0Yk>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> At risk groups include low-income students, migrants, English Language Learners, students with disabilities, Title I students, and students who are homeless. *State Policy Report: Dropout Prevention and Student Engagement 2103-2014*, Colorado Department of Education, p15. <https://goo.gl/lt2tmL>.

<sup>10</sup> *Fostering Success in Education*.

<sup>11</sup> *Id.*

<sup>12</sup> Number of youth with delinquency cases, 1985-2013. Office of Juvenile Justice and Delinquency Prevention. <http://www.ojjdp.gov/ojstatbb/ezajcs/asp/display.asp>.

<sup>13</sup> *Status Offenses*. Office of Juvenile Justice and Delinquency Prevention. [https://www.ojjdp.gov/mpg/litreviews/Status\\_Offenders.pdf](https://www.ojjdp.gov/mpg/litreviews/Status_Offenders.pdf). “In 2013, the majority of petitioned status-offense cases included truancy (51 percent), followed by underage drinking violations (15 percent), ungovernability (9 percent), curfew violations (9 percent), runaways (8 percent), and miscellaneous (8 percent).”

such as running away from home, being truant from school, and not following a parent's instructions, often labeled as "incorrigible youth."<sup>14</sup>

Youth that are adjudicated delinquent or held pre-adjudication may face a variety of punishments, from probation and community service to imprisonment in a locked facility. Youth that are committed to a secure facility may be offered one size fits all classes, without regard to their grade level or special needs. Nationally, two out of three youth that interact with the juvenile justice system eventually drop out of school.<sup>15</sup>

### **Impact of Court-Involvement on Youth**

Court-involved youth are especially at risk for receiving a poor or interrupted education. When a child is involved in a dependency or delinquency case, education is not often prioritized or considered as part of the court's findings. Children change placements, leave school districts, and miss classes. They face enrollment delays, do not receive partial credit for classes completed, and are unable to join extracurricular and enrichment programs because of missed deadlines. Far too often legal advocates and courts do not incorporate improvements in a child's educational experience into the legal court process and orders that emerge from the court.

Youth who are part of both the foster care and the juvenile justice systems, known as crossover youth, dual status, or dually involved youth, face even greater challenges. Additionally, court-involved youth are disproportionately students of color, students with disabilities, and/or students that identify as LGBTQ. For these children, becoming involved with the legal system compounds the disadvantages they face. Targeted policies addressing all of these challenges are necessary to reach all court-involved youth.

### **Long-lasting Economic Consequences**

In 2009, Northeastern University prepared a groundbreaking report on the cost to society when youth drop out of school. *The Consequences of Dropping Out of High School*<sup>16</sup> paints a bleak picture for youth ages 16-24 who dropped out of high school as compared to their peers:

- Approximately 54% of dropouts are not working and 30% live in poverty.
- Dropouts earn an average annual income of \$8,358, compared to \$14,601 for those who complete high school and \$24,797 for college graduates.
- 38% of female youth who drop out are mothers, compared to 6% for youth who are college students or graduates, and they are nine times more likely to be single parents.
- They are 63 times more likely to be incarcerated than college graduates.

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<sup>14</sup> *Id.*

<sup>15</sup> *Community and School Re-entry*, Juvenile Law Center. <http://www.jlc.org/current-initiatives/promoting-second-chances/community-and-school-re-entry> and *Reentry Myth Busters!*, Federal Interagency Reentry Council. Jan. 2017. [https://csgjusticecenter.org/wp-content/uploads/2012/11/Reentry\\_Council\\_Mythbuster\\_Youth\\_Access\\_Ed.pdf](https://csgjusticecenter.org/wp-content/uploads/2012/11/Reentry_Council_Mythbuster_Youth_Access_Ed.pdf).

<sup>16</sup> Sum, Khatiwada, McLaughlin, and Palma. *The Consequences of Dropping Out of High School: Joblessness and Jailing for High School Dropouts and the High Cost for Taxpayers*, Northeastern University Center for Labor Market Studies. Oct. 2009. [https://repository.library.northeastern.edu/downloads/neu:376324?datastream\\_id=content](https://repository.library.northeastern.edu/downloads/neu:376324?datastream_id=content).

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Comparing people of all ages in 2012, the average income for dropouts was \$20,241, compared to \$30,647 for high school graduates and \$56,665 for those with bachelor degrees.<sup>17</sup> In 2014, the employment rate for young adults ages 20-24 was 47% for dropouts, almost half the rate for those with a college degree (88%).<sup>18</sup>

*The Consequences of Dropping Out* concludes that “The average high school dropout will cost taxpayers over \$292,000 in lower tax revenues, higher cash and in-kind transfer costs, and imposed incarceration costs relative to an average high school graduate.”<sup>19</sup> The consequences of educational failure are huge for both students and the community. When half of foster care youth and two-thirds of juvenile justice youth drop out of high school, there is an urgent need for change.

## **Timely Federal Action Impacting All Students in the U.S.**

Education of all students in the United States consistently remains one of the top ten issues of national concern.<sup>20</sup> The 2015 reauthorization of the Elementary and Secondary Education Act as the Every Student Succeed Act (ESSA)<sup>21</sup> required significant changes in the services schools must provide to all students. For the first time, federal education law includes protections for foster care youth. The law also expands on supports for juvenile justice youth, particularly focused on smoothing transitions when children return to public school from detention.<sup>22</sup> The Department of Education, the Legal Center FCE, and the LCYJE have offered guidance through webinars and written materials as child welfare agencies and LEAs work to reach compliance.<sup>23</sup> Having an ABA Resolution in support of the Blueprints will bolster the work performed by Legal Center FCE and LCYJE.

## **THE BLUEPRINTS IMPROVE EDUCATIONAL ACCESS, STABILITY, AND SUCCESS**

The Blueprints have the power to make a difference in the lives of thousands of court-involved students. They are comprehensive frameworks built to tackle complex issues. The Blueprints are research-based and were developed with input from a wide range of stakeholders, including

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<sup>17</sup> Breslow, Jason M. “By the Numbers: Dropping out of High School.” Frontline. <http://www.pbs.org/wgbh/frontline/article/by-the-numbers-dropping-out-of-high-school/>

<sup>18</sup> *Employment Rates and Unemployment Rates by Educational Attainment*, National Center for Education Statistics. 2015. [https://nces.ed.gov/programs/coe/pdf/Indicator\\_CBC/coe\\_cbc\\_2015\\_05.pdf](https://nces.ed.gov/programs/coe/pdf/Indicator_CBC/coe_cbc_2015_05.pdf)

<sup>19</sup> Sum, et al. Over their working lives, the average high school dropout will have a negative net fiscal contribution to society of nearly -\$5,200 while the average high school graduate generates a positive lifetime net fiscal contribution of \$287,000.

<sup>20</sup> “Most Important Problem,” Gallup. Aug. 2016 – Feb. 2017. <http://www.gallup.com/poll/1675/most-important-problem.aspx>

<sup>21</sup> Every Student Succeeds Act. Pub. L. 114 – 95.

<sup>22</sup> For more information, see *How Will the Every Student Succeeds Act (ESSA) Support Students in Foster Care*, Legal Center for Foster Care & Education. 2016. [http://www.fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntryId=2004&Command=Core\\_Download](http://www.fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntryId=2004&Command=Core_Download) and *What the “Every Student Succeeds Act” Means for Youth in and Returning From the Juvenile Justice System*, Juvenile Law Center. Jan. 2016. [http://www.jlc.org/sites/default/files/ESSAJJ\\_Factsheet\\_FinalWebinarVersion\\_Jan262016.pdf](http://www.jlc.org/sites/default/files/ESSAJJ_Factsheet_FinalWebinarVersion_Jan262016.pdf).

<sup>23</sup> For more information ESSA and foster care visit [www.fostercareandeducation.org](http://www.fostercareandeducation.org); for more information on ESSA and juvenile justice visit [www.jjeducationblueprint.org](http://www.jjeducationblueprint.org).

lawyers, judges, and educators. They serve as a vehicle to change the trajectory and outcome of students' lives. Summaries of the unique challenges facing court-involved youth and what the Blueprints say we should do are outlined below.

### **Youth should remain in the community school**

Court-involved youth face a challenge that most other children do not experience – they change schools frequently and may not have an adult to advocate that they remain in their school of origin. Studies have shown that students in foster care are a “distinctly disadvantaged subgroup” that perform worse than their peers in almost every category, with a higher percentage of students diagnosed with disabilities and held back one or more grades, challenges that are compounded by changing schools.<sup>24</sup> Once youth enter a secure placement, two out of three will not return to the community school to complete their education.<sup>25</sup>

The first goal of the Foster Care Blueprint and the third goal of the JJ Blueprint speak directly to this point. The Blueprints call for the judge, child welfare agency, and the youth/family to take into consideration school stability when making a placement decision. When a youth changes foster care placement and remains at the school of origin, the child welfare agency and local education agency must address how transportation will be provided, arranged, and funded. Youth adjudicated for status offenses and less serious delinquent acts should also remain in community schools, and they should be given the necessary interventions and supports so that they can succeed. Court involved youth with disabilities need even greater attention and should have continuity in an appropriate educational setting, regardless of changes in a foster care placement or a move to a secure placement.

### **Schools should facilitate prompt enrollment and transitions**

The average youth in foster care experiences 2.8 living placements, and more than half change schools upon entering foster care, causing them to endure joining a new school, often in the middle of the academic year.<sup>26</sup> Youth in the juvenile justice system may change schools for a fresh start or when returning from a secure placement. Students who have to change schools find that their involvement with the foster care or juvenile justice system delays their enrollment. Transferring students face multiple barriers, such as failure of the schools to deliver records in a timely manner, being placed in the wrong classroom, or failing to receive credit for the work done if they did not complete a full school term, leaving them further behind.<sup>27</sup>

Goal 2 of the Foster Care Blueprint and Goal 9 of the JJ Blueprint advocate for smooth transitions among schools, school districts, and juvenile justice placements. The Blueprints give guidance that students can be enrolled by a caseworker or a foster parent, and that a lack of records should not be an impediment to beginning school. Students should receive full or partial credit for work

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<sup>24</sup> Wiegmann, Putnam-Hornstein, Barrat, Magruder, & Needell. (2014). “The Invisible Achievement Gap Part 2: How the Foster Care Experiences of California Public School Students Are Associated with Their Education Outcomes,” Stuart Foundation. 2014. <http://stuartfoundation.org/wp-content/uploads/2016/04/IAGpart2.pdf>.

<sup>25</sup> *Community and School Re-entry*.

<sup>26</sup> *Id.*

<sup>27</sup> *Fostering Success in Education*.

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completed at the prior school, and be permitted to participate in academic and extracurricular programs even if normal timelines have passed.

## **Court-involved youth need access to early childhood intervention**

Research demonstrates that a significant number of young children that experience abuse and neglect also have developmental delays, and one quarter of all children taken into protective custody are between birth and three.<sup>28</sup> They may have physical, cognitive, emotional, behavioral, and social problems, including attachment disorders, cognitive delays, and altered brain development.<sup>29</sup>

Foster Care Blueprint Goal 3 strives for young children to enter school ready to learn. Children who are removed from their home due to neglect or abuse have often experienced trauma. The act of removal itself is considered a system-induced trauma.<sup>30</sup> Because of this, young children in foster care need to be evaluated for developmental, emotional, and behavioral problems. However, children in foster care are less likely to participate in early intervention programs such as Head Start and receive counseling.<sup>31</sup> Court-involved children should be evaluated early and receive priority registration in early intervention programs. The Infants and Toddlers with Disabilities Program, Part C of the Individuals with Disabilities Education Improvement Act of 2004, was created to respond to the special needs of children from birth to 3.<sup>32</sup>

## **Youth are entitled to full participation in all aspects of the educational experience**

Beyond issues of school stability, court-involved youth often face other hurdles to having the same academic and nonacademic experiences as their non-foster school peers. Court-involved students may miss deadlines to sign up for tutoring, extracurricular, and enrichment activities. This is a missed opportunity because studies have shown that involvement in sports for girls, and church and after-school community activities for boys, significantly reduces the risk of delinquency.<sup>33</sup>

Foster Care Goal 4 and JJ Goal 4 focus on ensuring court-involved youth have access to all aspects of school, including academic supports and extracurricular activities. The Blueprints call for extra efforts to be made for court-involved youth so that they may experience a typical childhood and

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<sup>28</sup> *Addressing the Needs of Young Children in Child Welfare: Part C—Early Intervention Services*, U.S. Department of Health and Human Services, Child Welfare Information Gateway. Nov. 2013. <https://www.childwelfare.gov/pubPDFs/partc.pdf>

<sup>29</sup> *Id.*

<sup>30</sup> ABA Policy 109B, “Trauma-Informed, Evidence-Based Approaches and Practices on Behalf of Justice System-Involved Children and Youth Who Have Been Exposed to Violence.” American Bar Association. Feb. 2014. <https://goo.gl/g0z9mA>.

“Removal from the home and entry into foster care or a juvenile detention facility can itself be a traumatic experience for children and youth and is referred to as system-induced trauma.”

<sup>31</sup> *Fostering Success in Education*.

<sup>32</sup> Individuals with Disabilities Education Improvement Act is the 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA). 20 U.S.C. § 1400 (2004).

<sup>33</sup> “Can Involvement In Extra-curricular Activities Help Prevent Juvenile Delinquency?” Science Daily. Mar. 2008. <https://www.sciencedaily.com/releases/2008/03/080321174211.htm> Review of “Social Control, Serious Delinquency, and Risky Behavior: A Gendered Analysis,” Booth, Farrell, and Varano. Northeastern University, Crime & Delinquency. Apr. 2008. <http://journals.sagepub.com/doi/abs/10.1177/0011128707306121>.

participate with their peers. Court-involved youth may need additional academic supports to help them make up for lost time in school. Court-involved youth with disabilities need to receive full protection of their rights under Individuals with Disabilities Education Act to an appropriate education, including receiving their education in the least restrictive environment possible.<sup>34</sup>

### **Preventing disciplinary actions and school dropout**

When youth are frustrated by frequent moves, rough transitions, or life circumstances that have led to child welfare or juvenile justice involvement, they are more likely to act out, skip school, or drop out altogether. The trauma of abuse, neglect, and removal, and frustration at being behind their peers in school may also contribute to misbehavior by court-involved youth.

Foster Care Blueprint Goal 5 is to prevent dropout, truancy, suspension, and expulsion. To prevent this, youth need access to counselors and staff that are trained in recognizing abuse, neglect, and trauma. Court-involved youth should not be disproportionately subjected to suspension and expulsion, and should not be pushed to alternative schools.

Court-involved youth are at particular risk in schools with zero tolerance policies that automatically enforce suspensions and expulsions, sometimes for minor infractions, without knowing more about a particular student's unique circumstances. Zero tolerance only serves to push students out, in contradiction to the first goal of keeping youth in school.<sup>35</sup>

### **Youth should be empowered and included in educational decisions**

Court-involved youth are caught in a system where the courts and various adults control almost all aspects of their lives. The court can tell them where to live, who they can live with, and where to go to school. It is normal for teens, especially ages 15-19, to increasingly want to make decisions about friends, where they spend their time, and other aspects of their lives.<sup>36</sup>

Foster Care Goal 6 and JJ Goals 1 and 6 provide for youth to be involved, engaged, and empowered in all aspects of their education. Youth should have a positive school environment where they can articulate their academic needs and interests. This goal can be achieved by including youth in meetings and court proceedings where educational decisions are made. Youth should be informed of their educational rights and encouraged to participate in decision-making by attorneys, judges, educators, and child welfare workers.

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<sup>34</sup> Individuals with Disabilities Education Improvement Act.

<sup>35</sup> For further information on the ABA's position on Zero Tolerance, see ABA Policy 103B "Revisions to the Second Edition of the ABA Criminal Justice Standards on Electronic Surveillance." American Bar Association. Feb. 2001, renewed for ten years in Aug. 2011. [http://www.americanbar.org/content/dam/aba/directories/policy/2001\\_my\\_103b.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/directories/policy/2001_my_103b.authcheckdam.pdf).

<sup>36</sup> *Parents & Teachers: Teen Growth & Development, Years 15 to 17*, Palo Alto Medical Foundation. <http://www.pamf.org/parenting-teens/health/growth-development/growth.html#Social and Emotional Characteristics>.

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## **Youth need an invested adult and clear education decision makers**

Court-involved youth need at least one committed adult advocate to look out for their educational needs to make sure they do not fall behind and to ensure they receive any needed supports to stay on track with peers. Youth that feel supported by an adult are more likely to feel connected to school and less likely to be truant or use illegal substances.<sup>37</sup>

Foster Care Goal 7 and JJ Goal 2 call for each child to have at least one adult who is invested in the child's education. This adult should be present before, during, and after the child's time in a placement away from home. An educational advocate can push for special education testing and services, and make sure that the child is able to participate in all aspects of the school. Especially in situations where a parent is not available, an educational advocate provides stability for a child who may change placements and teachers multiple times. The advocate should be familiar with educational rights for children with and without disabilities. Youth in foster care must also have clear education decision makers to ensure that their education rights are protected while in foster care.

## **Youth in juvenile justice placements deserve high quality education and career pathways**

Youth in the juvenile justice system, both pre- and post-adjudication, may be held in secure facilities with limited access to educational opportunities, and substandard classrooms and instructors. For example, youth who spent time in a locked facility told researchers, "Many of us were in facilities where all youth – no matter what age or grade level – were in the same classroom and doing the same work. We had teachers who did not seem qualified to teach us, and we did not have enough textbooks, workbooks or other resources that challenged and engaged us."<sup>38</sup> Teachers should be certified and equipped with the skills and knowledge to teach academic and technical subjects.<sup>39</sup>

The JJ Blueprint Goals 5 and 7 call for high quality educational and career pathways in juvenile justice placements. Upon entering a placement, a youth's educational needs and levels should be assessed and the services and programs should be individually tailored. Placement schools should follow the state curriculum so that credits can be transferred. Youth should be offered the same amount of instructional time as in a community school, and classes should be offered year-round. Youth should receive meaningful career training and the opportunity to earn certificates and participate in internships in the community.

## **Youth need supports to enter into and complete postsecondary education and training**

Only half of foster care youth and one third of juvenile justice youth graduate from high school by age 18.<sup>40</sup> Studies show that youth whose parents did not attend college are at a "distinct

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<sup>37</sup> *School Connectedness: Strategies for Increasing Protective Factors Among Youth*, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. 2009. <https://www.cdc.gov/healthyyouth/protective/pdf/connectedness.pdf>

<sup>38</sup> *Justice for Juveniles: Educational Recommendations to Improve Outcomes for Youth in the Juvenile Justice System*, Juvenile Law Center. Apr. 2015. [http://www.jlc.org/sites/default/files/publication\\_pdfs/J4JEdRecs4-15-15.pdf](http://www.jlc.org/sites/default/files/publication_pdfs/J4JEdRecs4-15-15.pdf)

<sup>39</sup> *Id.*

<sup>40</sup> *Fostering Success in Education and Community and School Re-entry.*



disadvantage” in reaching college, staying enrolled, and graduating.<sup>41</sup> Court-involved youth may not have adult role models in their lives demonstrating that college is a possibility. For those that do reach postsecondary education and training, they need funding and supports such as housing to achieve success.

The eighth goal in both the Foster Care and JJ Blueprints focuses on providing support so that the youth can enter and complete postsecondary education and/or training. The youth must be exposed to these opportunities and given assistance in applying for college, career training programs, and financial aid. Youth in foster care should be given the option to remain in care beyond age 18 to receive financial support and housing while pursuing education and/or job training.

**Marginalized youth should be educated in their home schools rather than being disproportionately assigned to juvenile justice placements.**

Youth of color, youth with disabilities, LGBTQ youth, English language learners, and those with intersectional identities are disproportionately represented in the child welfare and juvenile justice systems. Studies show these marginalized youth have disproportionate contact with the school to prison pipeline and juvenile justice placements.<sup>42</sup> As many as 70% of youth in the juvenile justice system have learning disabilities and would be better served in a community school rather than a secure placement.<sup>43,44</sup>

JJ Goal 10 recognizes that marginalized youth are overrepresented within the child welfare and juvenile justice systems, and often have special needs that make them particularly vulnerable for educational failure. To ensure educational access, stability, and success for marginalized youth, programs should be free of racial and ethnic bias and individuals involved in the placement must be vigilant about identifying and correcting bias. Youth that identify as LGB, transgender, or gender non-conforming should not be punished with segregation or isolation and should be given equal educational opportunities.

**WHY THE ABA NEEDS THIS RESOLUTION**

Endorsing these Blueprints is important because these frameworks are comprehensive, researched, and well-vetted and can be critical tools for improvements in policy and practice for court-involved youth. Inclusion of this Resolution would fill a gap in ABA policy to comprehensively outline the needs of court-involved youth. The Blueprints are timely because they are directly impacted by

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<sup>41</sup> Choy, Susan. *Students Whose Parents Did Not Go to College: Postsecondary Access, Persistence, and Attainment*, U.S. Department of Education, National Center for Education Statistics. 2001. <https://nces.ed.gov/pubs2001/2001126.pdf>

<sup>42</sup> *NEA Policy Statement on Discipline and the School to Prison Pipeline*, National Education Association. May 2016. p2. [http://ra.nea.org/wp-content/uploads/2016/07/NEA\\_Policy\\_Statement\\_on\\_Discipline\\_and\\_the\\_School\\_to\\_Prison\\_Pipeline\\_2016.pdf](http://ra.nea.org/wp-content/uploads/2016/07/NEA_Policy_Statement_on_Discipline_and_the_School_to_Prison_Pipeline_2016.pdf), citing *Civil Rights Data Collection Data Snapshot*, US. Department of Education Office for Civil Rights. Issue Brief No. 1, Mar. 2014. <http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>.

<sup>43</sup> *Improving Educational Opportunities for Youth in the Juvenile Justice System*, National Juvenile Justice Network, Mar. 2016. [http://www.njjn.org/uploads/digital-library/NJJN\\_Educational%20Re-entry-snapshot\\_Mar2016\\_FINAL.pdf](http://www.njjn.org/uploads/digital-library/NJJN_Educational%20Re-entry-snapshot_Mar2016_FINAL.pdf)

<sup>44</sup> Dear Colleague letter on students with disabilities <https://www2.ed.gov/policy/gen/guid/correctional-education/idea-letter.pdf>

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the 2015 passage of ESSA and federal, state, and local efforts to implement new federal education law throughout the nation. The ABA has been a strong voice, through the work being done by the ABA Center on Children and the Law, to support the needs of both youth in the child welfare system and juvenile justice system as they relate to education stability and success.

Specifically, this Resolution calls on judges, attorneys, legislators, and others to focus on improving policy and direct practices to meet the education needs of court-involved youth. Strong legal advocacy is needed, and new policies and practices are required to achieve the goals in these Blueprints. This includes promoting the following strategies and practices to improve and expand efforts in the following areas:

- **Legal Advocacy within Juvenile Court Cases:** Legal advocates in child welfare and juvenile justice cases need to raise education issues and seek court intervention to address barriers and challenges within the existing juvenile court cases. Too often education related issues are not addressed or the focus of those proceedings, leaving court-involved youth at risk of educational failure. Many jurisdictions have sought to address this issue through the use of court tools or checklists that remind judges and attorneys to raise issues such as educational stability, access to education, appropriate services and support, and clarity around education decision-making for court-involved youth.
- **Legal Advocacy in Ancillary Educational Matters:** We must increase focus and attention to legal education advocacy needed for students involved in the child welfare and juvenile justice systems. This includes: legal actions related to access to education; enrollment disputes; special education eligibility, needs, and services; and disciplinary actions, including suspensions and expulsions. More lawyers need to be trained to handle these important cases and pro bono opportunities increased to support attorneys in these actions.
- **Internal Agency and Court Attention to Policies to Support Education for Court-Involved Youth:** Courts can and should adopt court rules and policies that ensure education related issues are being addressed for all youth in the custody of child welfare and juvenile justice agencies. Those agencies – with support from attorneys for education agencies and schools, and child welfare and juvenile justice agency counsel – must also revise their own internal policies, protocols, and business practices to support educational stability and success for youth in their custody.
- **State and Local Cross System Collaboration:** Courts must work collaboratively with legal advocates, custodial agencies, and schools to ensure a comprehensive, systemic strategy to ensure education success of court involved youth. These collaborative efforts must exist both at the state level – where joint guidance and policies can be established – and at the local level so front line advocates, practitioners, and schools can work to ensure improved educational attention and supports for individual students. The leadership role of the court to bring together representatives from various systems and stakeholder groups, and oversee cross-system collaboration, can be a critical component to the success of court-involved youth.
- **Federal and State Legislative Action:** Supporting the education needs of court-involved youth can best be achieved through changes to federal laws and regulations guiding

schools, agencies, and courts. As was recently demonstrated by critical changes in federal education law through ESSA, these changes can make a big impact on ensuring all court-involved youth are protected. State action is also needed to expand on federal requirements and ensure uniformity in statewide implementation of supports and services.

### **HISTORY OF EDUCATION POLICIES**

The ABA has a number of related policies on education, foster care, juvenile justice, and crossover youth.<sup>45</sup> There is a long history of education policy generally, especially on the topic of civic education.<sup>46</sup> The ABA supports the right to a high quality education, access to safe and supportive schools, limiting the use of suspension, expulsion, and zero-tolerance policies, and encouraging youth with interrupted education to return and complete school (Policies 118A, 118B, and 118C from August 2009 and 103B from February 2001, renewed August 2011). The ABA previously weighed in on education and transitional supports for foster care youth (Policies 113 from August 2004, renewed in 2014, and 112A from August 2012).

Previous policies were based on foster care youth being covered by McKinney-Vento<sup>47</sup> regulations, not the recent ESSA regulations. ESSA requires local education agencies and child welfare agencies to designate staff to ensure educational stability and to jointly address issues that may arise, such as transportation and enrollment. Because of the changes in federal education law, this new Resolution is needed to keep the ABA up to date.

### **CONCLUSION**

Youth in the foster care and juvenile justice systems are at risk for educational failure. Court-involved youth are dropping out at staggeringly high rates and there are long term societal costs when youth do not complete their education. The Blueprints provide a framework to improve educational access, stability, and success for this vulnerable group. This ABA Resolution endorsing both Blueprints and creating a call to action for judges, attorneys, and direct service providers is a critical step to improve legal advocacy in juvenile court and education matters, and shape policies and practices that ensure educational rights.

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<sup>45</sup> A summary of relevant ABA policies is included in the General Information Form, Question 4.

<sup>46</sup> Current civic education policies: 300 Bar Associations Should Urge Civic Education Classes/Courses (August 2011); 300 Governments Should Mandate Civic Education Classes/Courses (February 2011); Requiring Civic Education in Nation's Public Schools (February 2011); 110 High Quality Civic Education Learning (August 2010); 122 Establishing a Coordination Office of Civic Education in the U.S. Department of Education (August 2009); 114 Adding Civic Learning to No Child Left Behind (August 2007); 102 Lawyers and Judges Should Support Civic Education (August 2006, renewed 2016); 114 Civic Literacy (February 1995); and 114 Judicial Participation in Public Education Programs (August 1992).

<sup>47</sup> McKinney-Vento Homeless Assistance Act, Pub. L. 100 – 77.

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ABA Center on Children and the Law has been involved since the beginning in crafting both Blueprints and forming the Legal Center FCE and LCYJE. The Foster Care Blueprint has already been successfully deployed nationally. Now, with the release of the JJ Blueprint, it is crucial to make sure the ABA endorses these successful frameworks.

Respectfully submitted,

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Chair, Commission on the Lawyer's Role in Assuring  
Every Child's Right to a Quality Education  
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