



2013 Report to the Pennsylvania State Roundtable

Educational Success & Truancy Prevention

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Introduction

The Truancy Workgroup began its work in December 2009. Created by the Pennsylvania State Roundtable upon its recognition of the urgency to address school attendance issues, the Workgroup's mission was to gather information about critical systemic issues in Pennsylvania regarding truancy, identify nationally recognized and Pennsylvania best practices, and outline both an approach and a series of recommendations for reducing truancy in Pennsylvania. The Workgroup was comprised of relevant stakeholders from the courts, child welfare, education, and others, who engaged in robust dialogue on the troubling issue of truancy. In May 2010, the Truancy Workgroup issued its report and recommendations, *Truancy: A Call to Action*, which was adopted by the Pennsylvania State Roundtable and supported by stakeholder leaders and professional organizations across the Commonwealth.

Over the course of the next year, the Workgroup continued its work, focusing on reform of key legislation, implementation efforts, and engagement of medical community stakeholders. In May 2011, the Workgroup issued an updated report to the Pennsylvania State Roundtable, which was also adopted. The recommendations included an examination of existing laws governing school attendance, to support stakeholders in the implementation of the recommendations outlined in the *Truancy: A Call to Action* report and partner with stakeholders to enhance educational materials about truancy. Most importantly, the Pennsylvania Roundtable expanded the mission of the Workgroup to include educational stability and success for children in foster care and successful implementation of the Fostering Connections to Success and Increasing Adoptions Act in Pennsylvania. The name of the Workgroup was changed to reflect its new mission and the Educational Success and Truancy Prevention Workgroup (ESTP) was launched. A number of new members joined the Workgroup in order to provide the additional expertise and stakeholder participation relative to the group's expanded mission and ambitious charge.

The 2012 Report to the State Roundtable presented information in two sections; *Educational Success* and *Truancy Prevention*. Anticipating that its efforts on truancy initiatives would gradually diminish, and faced with the task of outlining a comprehensive plan for education success and stability for Pennsylvania's foster youth, the majority of the Workgroup's recommendations centered on the latter.

In accordance with the charge of the ESTP Workgroup following the 2012 State Roundtable meeting, the Workgroup focused efforts during the past year on implementation of the approved 2012 recommendations. The Workgroup met regularly to design an implementation strategy for **education success** including the Pennsylvania Action Plan for Educational Success and court competencies (including recommendations for Pennsylvania's Dependency Benchbook). Throughout its meetings, the Workgroup also carefully considered the impact of congregate care on the education success of Pennsylvania's foster youth. Finally, the Workgroup addressed the remaining priority issues for **truancy prevention**; legislative reform, enhancements to the PA Truancy Toolkit, an enhanced truancy prevention training curriculum for child welfare professionals, and cyber schools. Also included is a 2013 update to the survey conducted in 2009 regarding truancy.

The Workgroup added questions to the 2013 survey to address educational stability and the impact of congregate care on educational success. Forty-two counties responded to the 2013 survey. The full survey is attached (Attachment 1). Highlights of the survey are noted throughout this report.

Educational Success: Elevating Educational Needs as a Critical Component of Child Well-Being

If we hope to make real progress toward education success for our dependent youth, community stakeholders, lead by the courts, child welfare and education, must elevate the importance of the educational needs of every child. Notably, each of the above three key institutional stakeholders have articulated rules, regulations and guidelines to prioritize education for foster youth. In 2010, the Pennsylvania Supreme Court adopted rules which require educational needs to be addressed at every stage of a child's court proceedings. Pennsylvania's Department of Public Welfare, Office of Children Youth and Families (OCYF) published Bulletin B3130-10-04 *Educational Stability and Continuity of Children Receiving Services from the County Children and Youth Agency, including the use of an Education Screen*. The Pennsylvania Department of Education (PDE) issued a Basic Education Circular (BEC) entitled *Enrollment of Students*, which addresses issues related to enrollment of children in foster care. More recently, in March of this year, PDE released Frequently Asked Questions (FAQs) regarding *The Education of Children in Foster Care or Awaiting Foster Care Placement*. The FAQs provide guidance to school districts, parents, children and youth agencies, both public and private agencies, and interested parties in the development and implementation of comprehensive plans to meet the social, familial, and educational needs of children in foster care. (Attachment 2) In addition, changes at the federal level to the Family Educational Rights and Privacy Act (FERPA) now ensure that child welfare professionals obtain immediate access to the education records of children in care.

While these directives provide a framework for stakeholders to prioritize the educational needs of foster youth, many of the above provisions are relatively new. Cross-systems training will be imperative to ensure that the framework is followed and that children's education needs, as a critical component of well-being, are met.

A. Pennsylvania's Child Welfare, Education and the Courts' Action Plan

In November of 2011, a team of Pennsylvania stakeholders was invited to participate in a national summit co-sponsored by the US Department of Health and Human Services and the Department of Education: "*Child Welfare, Education and the Courts: A Collaboration to Strengthen Educational Success of Children and Youth in Foster Care*." As a result of the Summit, an Action Plan was developed to improve well-being for children in foster care or at risk of entering foster care. The ideas and planning efforts that came out of the Summit dovetailed nicely with the work already being done by the PA State Roundtable's ESTP Workgroup. In 2012, the Workgroup formed an Action Plan Team of the ESTP to implement the PA Child Welfare Education, and the Courts (CEC) Action Plan. The Team is chaired by

leaders from OCYF and PDE, with strong representation and support from the courts, and includes members from county children and youth agencies and the Education Law Center.

In January 2013, The PA CEC Action Plan Team convened a meeting facilitated by Kathleen McNaught, Assistant Director from the American Bar Association Center on Children and the Law to revise and finalize the PA Action Plan and develop a strategy for implementation. The comprehensive Action Plan has a multi-year timetable for completion focusing on: enhanced communication and collaboration; data collection and sharing; policy and legislative reform; cross-systems training and enhanced court practices. (*note: responsibility for further refinement and implementation of the 8 Goals for Youth in Out-of-Home Placement adopted at the 2012 PA Roundtable will be assumed by the PA CEC team, and included in the Action Plan.*) The Action Plan was approved by PDE, DPW/OCYF and AOPC/OCFC in February 2013, with a collective commitment to support the CEC Team's ongoing efforts for implementation. Following these endorsements and at the recommendation of the Pennsylvania department chiefs, the PA CEC Team began its work focusing on a data action plan (including identifying data elements, model policies and MOU's) for collecting and sharing education data between the courts, child welfare and education stakeholders.

Moving forward, the PA CEC Action Plan will serve as the '*blueprint*' for the priorities for educational success articulated by the ESTP Workgroup, and approved by DPW/OCYF, PDE and AOPC/OCFC. The ESTP Workgroup will act as a governing body to provide oversight, expertise and guidance while the PA CEC Team continues to meet regularly to accomplish Action Plan goals.

B. Court Competencies

Summary of ESTP Workgroup's Suggestions for PA Dependency Benchbook

The ESTP Workgroup submitted suggestions to the Pennsylvania Dependency Benchbook Committee to highlight the best practices in judicial educational decision-making. In its suggestions, the Workgroup emphasized educational decisions as substantial factors in all court decisions throughout a dependent child's case. The group wanted to stress the importance of ensuring that a youth who comes under the care of the Pennsylvania Courts receives a successful education as a systematic imperative. The Workgroup highlighted practical inquiries into a dependent child's educational abilities, history, environment, and future.

The ESTP Workgroup's suggestions for the Benchbook included educational information with references, advice regarding what education questions to ask at different points throughout the process, and suggested educational decisions to make at different stages. As the Benchbook Committee indicated that it would prefer educational suggestions spread

throughout appropriate chapters of the Benchbook rather than a new chapter only on education, the Workgroup's suggestions took this format. However, there were a few, key areas where the Workgroup offered more substantial input.

One area that the Workgroup highlighted is appointment of an **education decision maker**. The group offered advice to judges regarding when a decision maker should be appointed and who can fulfill this function. Federal disability law, as it applies to a dependent child, is complicated and the Workgroup offered further guidance. For instance, federal disability law, unlike Pennsylvania dependency law, precludes a local/state welfare worker to be an education decision maker. Additionally, a child who falls under federal disability law needs an **Individualized Education Plan (IEP)**, which creates additional responsibilities for an educational decision maker. The Workgroup offered additional information about IEP's following consultation with subject matter experts. Moreover, the Workgroup stressed displacing a parent as education decision maker for the child should only be done through a hearing where evidence is weighed carefully. Overall, the Workgroup highlighted the education decision maker as an important option in a dependency case but raised important questions to consider when appointing one.

The Workgroup drafted an **education bench card** designed to offer easy-to-reference questions. The bench card contains questions regarding a child's current enrollment, school records, transportation, school setting, education stability, graduation status and post-graduation plans.

The ESTP Workgroup proposed adding a new "Education Success" section for the PA Dependency Benchbook's General Issues chapter. This **section stresses the importance of prioritizing education issues in court proceedings, summarizes the research on outcomes for foster youth whose educational needs are not met, and provides an education checklist** for use in dependency proceedings. In addition, the section summarizes accepted best practice; when a dependent child is attending the residential placement school, the judge should inquire why the child is not **enrolled in the local public school and whether the residential placement's credits will transfer** to the public school.

After the ESTP Workgroup made its initial recommendations to the Benchbook Committee, a new version of the Family Educational Rights and Privacy Act (FERPA) was passed which included a provision allowing Children and Youth organizations to directly access student records. The ESTP Workgroup will submit information on the changes to FERPA to the Benchbook Committee for consideration. In addition, the ESTP Workgroup is considering submitting cyber charter school-related recommendations for the Benchbook. The challenges of dependent youth attending cyber charter school is a subject that is of particular concern to the Workgroup.

Court Performance Measures and Best Practices

AFSA identifies well-being as a dimension of performance measurement and includes children's educational needs as part of well-being measures. Courts can use child educational well-being measures to evaluate these areas of performance and should adopt appropriate outcomes measures and track data/performance through the Common Pleas Case management System (CPCMS). The ESTP Workgroup will work together with the PA Roundtable, the PA Juvenile Court Rules Committee and the AOPC Judicial Automation Department to further explore this.

Court's must consistently be provided with comprehensive, accurate and timely information to permit regular review to assess a child's educational well-being at every stage of court proceedings, consistent with the PA Rules of Juvenile Court Procedure. In light of the recent modifications to FERPA allowing child welfare professionals easier access to educational records from schools, the ESTP Workgroup strongly recommends judges inquire about school setting (i.e. public, private, residential, charter, cyber), attendance, special needs, academic progress (promotion to the next grade level, graduation, credit transfer/recovery) and school moves as a result of placement moves (see also discussion re: congregate care considerations, *infra*).

C. Educational Success and Congregate Care

A discussion of the issues

While there are 33% fewer children and youth in foster care than in 2007, Pennsylvania continues to exceed the national average with regard to the percentage of children and youth living in congregate care settings. The ESTP Workgroup focused attention this past year on meeting the needs of youth placed in these settings and reducing the number of children and youth referred to congregate care. Specifically, the Workgroup devoted several of its meetings to this topic, including a special session with subject matter expert Kate Burdick, Esq., Equal Justice Works Fellow at the Juvenile Law Center. Ms. Burdick shared her expertise on education in congregate care facilities. In addition, the Workgroup reviewed national research, as well as Pennsylvania based surveys, highlighted below.

The educational challenges that pervade the child welfare system on the whole are particularly acute for children in congregate care. The Workgroup surveyed the Local Children's Roundtables to gain further insight into this issue. Of 42 counties that responded, 78.6% reported that **children living in congregate care settings with on-site schools "sometimes" or "rarely" attend the local public school**. This result was troubling in light of clear policies issued by DPW and PDE which direct that when a child is placed in a residential facility for "non-educational" reasons, the presumption is that he or

she will attend the local public school rather than the on-site school.¹ Moreover, **only 2.4% of respondents indicated that children who do attend on-site schools “always” receive educational services and opportunities equal to that provided in the local public schools.** In addition, 54.8% reported that students “sometimes” or “rarely” receive full credit for work done in on-site schools and stay on track to graduate.

These results are consistent with a comprehensive investigation of education in congregate care conducted by Education Law Center in 2009-2010 with support from the Stoneleigh Foundation.² That report included the following findings:

- Of providers surveyed, 56% reported that “none” or “less than 10 percent” of children in their care attended public school, and 54% stated that youth who were permitted to attend public school were “required” to attend an *Alternative Education for Disruptive Youth* program
- 52% of caseworkers reported that the *curricula of on-grounds schools at congregate care facilities was not grade-level appropriate.*
- Of the youth surveyed who were educated on-site, approximately 50% reported that they were taught in a classroom with children of varying ages and 12% were educated “solely” through independent worksheets.

In addition, to gain perspective from providers, the ESTP Workgroup asked the Pennsylvania Council of Children Youth and Family Services (PCCYFS) to survey provider agencies to provide information from their perspective on the scope of services and quality of education for youth while they are in congregate care. While only 20 providers responded, PCCYFS believes that the survey results (Attachment 3) give a credible first glance impression of provider experiences with youth in congregate care. The majority of responders reported that **most youth in their programs do not attend their home school/school** where the student attended prior to placement. More than 90% indicated that “all” or “some” of their curriculum aligns with the host school district. **Most providers indicate a good relationship with the host school district.** Regarding barriers, providers

¹ Pa. Dep’t of Education, Basic Education Circular, *Educational Programs for Students in Non-Educational Placements* (Date of Review May 2010), available at http://www.portal.state.pa.us/portal/server.pt/community/pa_codes/7501/educational_portions_of_non-educational_placements/507372; Dep’t of Public Welfare, Bulletin, *Educational Programs for Students in Non-Educational Placements* (Date of Review January 4, 2010), available at http://www.pccyfs.org/dpw_ocyfs/Education/EducationalPortions_Non-Educational-Residential-Placements.pdf; see also 24 P.S. 13-1306 (children residing in children’s institutions have the right to attend public school where institution is located).

² See Arley Styer & Education Law Center, *Moving the Dial: A Report on Education Experiences of Children in Pennsylvania Residential Treatment Facilities* (March 2011), available at http://www.elc-pa.org/pubs/downloads%202011/Moving_the_Dial_Styer.pdf/

reported **incomplete/untimely records, lack of host school involvement in IEP meetings and public school reluctance to enrollment of youth as significant problems.**

In light of the above, as well as the comments, common experiences and anecdotal stories shared by Workgroup members, the Workgroup urges the Statewide Roundtable to adopt the following recommendations on educational success for youth in congregate care.

Recommendation 1: Prior to recommending or placing a child in congregate care, the child welfare agency and the Court should consider the impact of the placement on the quality of the child's education and educational trajectory. Specifically, the child welfare agency and the court should consider whether the child will stay in the same school, receive educational services of comparable quality, receive appropriate special education services, and acquire the credits needed to graduate on time.

Recommendation 2: When the child welfare agency motions the court for a change in placement, the motion should indicate whether or not the placement change implicates an educational change for the child, including a placement to an on-grounds school.

Recommendation 3: The court should not place a youth in a congregate care setting in order to address truancy by compelling his attendance at an on-site school. This will not solve the child's underlying truancy issues and may set the youth back academically.

Recommendation 4: Judges should receive further training on the education provisions of the PA Rules of Juvenile Court Procedure.

Suggested Court Inquires

Consistent with the Juvenile Court Procedural Rules and best practices, upon initial placement in a congregate care facility and at all subsequent hearings during the time the child remains in such a setting, the Court should inquire/receive information about the following:

- **Whether the child has remained in his/her school of origin, and, if not, whether it is in fact in that child's best interests to change schools**

Under the federal Fostering Connections Act, child welfare agencies must ensure that children remain in the same school, even if they move. This law – and all the research and data supporting school stability – applies with equal force to children in congregate care settings. Accordingly, remaining in the same school should be considered for all children.

- **Whether the child attends public school in the community, and if not, why not**

Under Pennsylvania's state law, 24 P.S. 13-1306 and the guidance issued by PDE and DPW regarding this law, children in residential placements should attend a public school unless (1) the Court makes a finding on the record that it is not in the child's best interest to attend public school, (2) an IEP team determines that another educational placement is appropriate for the child or (3) the child is currently expelled for a weapons offense. If it is decided that a student should not attend the public school, the Court should inquire whether the child would benefit from participating in extra-curricular activities at the local public school.

- **Whether the child's educational needs, including any special education needs are being met in the least restrictive setting school setting**

The Court should inquire as to whether a child's IEP is being followed and the child's special education needs are met. In addition, a child with special education needs must be educated to the "least restrictive" environment, i.e., to greatest extent possible with non-disabled peers.

- **Whether the child is making adequate academic progress and, for youth of high-school age, whether the youth is on-track to graduate; whether the credits the youth is earning in his/her current educational placement will be accepted by the youth's host or home district and whether the youth has access to all the classes he/she needs to graduate**

Youth who are placed in residential settings often lose ground and fail to earn needed credits to graduate. In some cases, it is even unclear who will issue the youth's diploma.

- **Whether the child needs an educational decision maker appointed by the Court.**

Children in congregate care often lack an active, involved adult to make education decisions on their behalf. Without an adult invested in the child's education, the child is more likely to fall through the cracks of the school system. Judges must ensure that children in care have an adult in their lives to make education decisions on their behalf, and should appoint an educational decision maker when needed pursuant to Juvenile Court Rule 1147.

- **Prior to leaving the placement, ensure that there is a plan in place to ensure prompt enrollment in an appropriate educational setting with all education records provided**

Best Practice

Before each hearing for a child in congregate care, the child welfare agency should submit to the Court the child's latest report card, a copy of any Individualized Education Plan (IEP) and evaluations, and a report that includes the following education elements:

- Whether the child is regularly attending school;
- The child's grade level;
- Whether the child is making academic progress and is on-track to graduate;
- Whether the child has changed schools recently;
- Whether the child has been disciplined in school; and
- Whether the child is in an Alternative Education for Disruptive Youth (AEDY) setting.

Truancy Prevention

In accordance with the directives of the 2012 Pennsylvania Roundtable, the ESTP Workgroup focused its attention on truancy prevention in four areas: legislative efforts, enhancements to the Truancy Toolkit, educational curriculum on truancy for child welfare professionals and cyber schools.

A. Truancy Legislation

In the May 2012 Report, The ESTP Workgroup recommended a number of significant changes to the Pennsylvania School Code related to truancy. These recommendations included defining specific terms, mandating the offering of a school attendance improvement conference, clarifying the procedure and burdens of proof before the magisterial district court, amending the sanctions that can be imposed for failure to attend school, and modifying the impact upon a child's driving privileges if convicted of violating the compulsory school attendance law.

These recommendations were shared with Pennsylvania legislators but to date, no Workgroup member has been invited to engage in further discussion. At this point, the Workgroup is unaware of any proposed legislation that endorses the recommendations. Nevertheless, a separate workgroup representing Pennsylvania's magisterial district judges is also proposing legislative amendments which mirror ESTP recommendations.

B. Enhancements to the Truancy Toolkit

The ESTP Workgroup will continue to support the Pennsylvania Department of Education's ongoing efforts to enhance the Pennsylvania Toolkit for School Attendance and Truancy Reduction. At the time of this writing, PDE is planning for a May 2014 completion date.

C. Child Welfare Resource Center Truancy Prevention Curriculum for Child Welfare Professionals

Representatives of the ESTP Workgroup provided feedback regarding the revisions to CWRC course 202: Truancy Prevention and Intervention Healing, a curriculum for child welfare professionals developed by the University of Pittsburgh's Child Welfare Resource Center. The revised learning objectives for participants will include: (1) Recognize and discuss the urgency of addressing truancy; (2) Identify strategies to remedy the underlying causes that place children at risk for truancy; (3) Recognize the importance of cross-system collaboration; and (4) Describe the Truancy Elimination Plan and how it can be used to reduce truancy. These objectives were derived from 2010 *Truancy: A Call to Action* Report.

Truancy: A Call to Action recommendations include the importance of collaboration among child welfare professionals, schools, medical professionals and the courts. As a result, a new section in the curriculum has been added to address collaboration and the importance of open exchange of information, whenever permissible. The curriculum will now incorporate the use of Truancy Elimination Plans as recommended by the Workgroup. In addition, the training will include information about the unique challenges presented when students are home schooled or attend Cyber Charter Schools. Participants will also utilize county specific PDE truancy data during the training to analyze truancy in their community. The Workgroup will partner to produce a video, which will become part of the curriculum. The video will feature successful truancy prevention programs and commentary by a judge, magistrate district judge and families receiving truancy prevention services.

D. Dependent Youth & Cyber Charter School

In the 2012 Report to the State Roundtable, the ESTP Workgroup recommended the group continue to address the issue of truancy in Pennsylvania Cyber Charter Schools and to provide further recommendations in the 2013 State Roundtable Report. The Workgroup spent considerable time addressing this issue and engaged subject matter experts from PDE, Education Law Center and the Pennsylvania Coalition of Public Charter Schools to better inform Workgroup members about cyber education in Pennsylvania.

Virtual learning has exploded in Pennsylvania in recent years. Pennsylvania is now the third highest state in the country in cyber enrollment and leads the nation in the number of Cyber Charter Schools. In 2012, sixteen Cyber Charter Schools enrolled over 32,000 students in full-time virtual programs; yet, none of these schools made adequate yearly progress and the standardized test scores and graduation rates of these students lagged far behind those of their peers educated in traditional schools. Of particular concern is the dismal graduation rate for some of the larger Cyber Charter Schools. Eight new providers applied for Cyber Charter School status to the PA Department of Education in 2013 - all were denied.

Cyber Charter Schools: A Poor Option for At-Risk Youth?

While virtual learning may be a viable option for some highly motivated youth or those who need to recover a few credits, studies indicate that cyber learning is a poor option for at-risk students. Cyber schooling may not be the best educational setting for those students who have a history of truancy, who are struggling academically or who are unmotivated to do well in school.

Although there are no statistics to support this position, there is a strong indication that many children experiencing problems with school attendance and their parents view Cyber

Charter School as a viable educational alternative. Even when cases are brought before dependency court, Cyber Charter School is being suggested as an option by families and caseworkers as perhaps the last resort for probable academic success – but is Cyber Charter School as a “last resort” really addressing the educational well-being of dependent youth? In certain circumstances, having a dependent child attend a Cyber Charter School may be an excellent solution to an intractable problem (i.e., bullying). However, before finding that attending Cyber Charter School is in a youth’s best interest, a court should ascertain whether the child and family are prepared to invest the time and effort necessary for a successful cyber educational experience.

Unfortunately, many families involved in dependency proceedings are often overwhelmed, making cyber education a questionable choice. Therefore, it is important to closely examine the underlying reasons for the child’s attendance issues and the level of commitment and support before deciding that Cyber Charter School is the best course for a particular child. In that regard, attached to this Report is a **checklist of considerations that families, caseworkers and the courts might utilize in making the appropriate decision** (Attachment 4). As best practice, courts should have a representative of the Cyber Charter School appear and explain what the particular Cyber Charter School can offer the youth. Once enrolled in a Cyber Charter School, the court will want to monitor the child’s progress. In addition, the court could require the child to produce a student portfolio of the work being done and require the school to provide monthly progress reports on the child.

Enrollment and Attendance Monitoring in Cyber Charter Schools

Before a child enrolls in a Cyber Charter School he/she must withdraw from his/her home school. Often there is a gap in the process where the child is not attending any educational program for a significant time. Therefore, the transition from one educational setting to another should be closely monitored. Once the child is removed from the public school, that school no longer monitors the child’s attendance. Assuming the child has enrolled in a Cyber Charter School, the cyber program is then required to monitor attendance. Monitoring attendance in a cyber-school setting is very difficult. Curiously, regulations require the Cyber Charter School to report attendance issues to the child’s home school district to pursue compliance with compulsory school attendance provisions. The home school bears the burden of presenting a case before a magisterial district court while having to rely solely on whatever support the cyber school offers. Therefore, it is suggested that the dependency court maintain jurisdiction of a child attending Cyber Charter School until the judge is comfortable that the child is participating successfully in that environment.

It was recommended in 2012 to put a mechanism in place to hold Cyber Charter Schools more accountable for monitoring and reporting violations in a timely manner. The group is once again **recommending the Pennsylvania Department of Education strongly consider strengthening policing mechanisms for Cyber Charter Schools relative to attendance to**

improve accountability for online learning programs. Further the ESTP Workgroup recommends that judges, attorneys, parents, children and youth professionals carefully weigh the strengths/weaknesses of a Cyber Charter program relative to the needs and abilities of the individual child for whom the program is being considered, and to closely monitor the progress of the child to support and promote educational success.

Workgroup members remain concerned about the quality of education received by dependent youth in Cyber Charter School settings, and that the attendance of children who are enrolled in Cyber Charter Schools is not being properly monitored and reported.

Recommendations: Cyber Charter Schools Enrollment, Attendance and Educational Success

Recommendation 5: When considering whether enrollment in a Cyber Charter School is in a dependent youth's best interest, a court should ascertain whether the child has the necessary skill set to succeed in an online learning environment, and whether the youth and family are prepared to invest the time and effort necessary for a successful cyber educational experience.

Recommendation 6: Approve "Considerations for Cyber School Enrollment for Students Before the Court" checklist (Attachment 4) to assist courts and other stakeholders in making decisions concerning Cyber Charter School enrollment and participation.

Recommendation 7: Dependency judges should have a representative of the Cyber Charter School appear and explain what the particular school can offer the youth and how the Cyber Charter School can meet the needs of the child.

Recommendation 8: Dependency judges, attorneys, parents, children and youth professionals should carefully weigh the strengths/weaknesses of a Cyber Charter program relative to the needs and abilities of the individual child for whom the program is being considered.

Recommendation 9: The court should monitor the child's progress and require the school to provide monthly progress reports.

Recommendation 10: Pennsylvania Department of Education should strengthen policing mechanisms for Cyber Charter Schools relative to attendance to improve accountability for online learning programs.

Highlights of the Educational Success and Truancy Prevention

Survey Results

In 2009, The PA State Roundtable's Truancy Workgroup surveyed leadership roundtable members to gain a better understanding of whether or not counties viewed truancy as an issue, how truancy was handled locally, and to gauge if county courts, schools and children and youth agencies were working collaboratively to address the issue. It was from those survey results that the Workgroup began their work to develop recommendations to assist Local Children's Roundtables to enhance truancy prevention efforts. Now, some four years later, the ESTP Workgroup repeated the survey to determine whether there is now a greater sense of urgency around truancy and whether collaborative efforts have increased. The answer to both of those questions, based on the survey results, is YES!

Although fewer counties responded to the 2013 survey (42 counties) versus the 2009 survey (52 counties) – results indicate that collaboration has increased, Local Children's Roundtables have prioritized truancy, more Truancy Elimination Plans are being utilized, more collaborative truancy prevention protocols are being developed and truancy data is more accurate and being used more often than in 2009.

Survey Highlights

Question	2009 Results	2013 Results
Do you believe truancy is an issue in your county?	90% - Yes	93% - Yes
Do you believe truancy is being handled effectively in your county?	42% - Yes 30% - No 25% - Yes & No	(Handled more effectively since 2010) 79% - Yes 21% - No
What are the reasons you believe truancy is being handled more effectively?		<ul style="list-style-type: none"> • Increased collaboration • Increased attention on the issue • Truancy being addressed by Local Children's Roundtable • Standardized Truancy Protocol
Since 2010, do you believe Truancy Elimination Plans are being used more often than in the past?		70% - Yes 30% - No
Does your county have a standardized truancy protocol?	53% - Yes 46% - No	90% - Yes 10% - No
Is there an educational system representative who participates on your roundtable?	36% - Yes 56% - No	62% - Yes 37% - No
In the past 3 years do you believe collaboration with stakeholders regarding truancy has increased, decreased or stayed the same?		71% - Increased 1% - Decreased 26% - Stayed the same
Since 2010, do you believe your county is reviewing and discussing truancy data with stakeholders?		74% - More often 0% - Less often 26% - About the Same
In the past 3 years do you believe courts and children and youth agencies are working to address the root causes of truancy more effectively than in the past?		81% - More often 16% - Sometimes 2.4% - Rarely 0% - Never

2013 Recommendations to the State Roundtable

Recommendation 1: Prior to recommending or placing a child in congregate care, the child welfare agency and the Court should consider the impact of the placement on the quality of the child's education and educational trajectory. Specifically, the child welfare agency and the court should consider whether the child will stay in the same school, receive educational services of comparable quality, receive appropriate special education services, and acquire the credits needed to graduate on time.

Recommendation 2: When the child welfare agency motions the court for a change in placement, the motion should indicate whether or not the placement change implicates an educational change for the child, including a placement to an on-grounds school.

Recommendation 3: The court should not place a youth in a congregate care setting in order to address truancy by compelling his attendance at an on-site school. This will not solve the child's underlying truancy issues and may set the youth back academically.

Recommendation 4: Judges should receive further training on the education provisions of the PA Rules of Juvenile Court Procedure.

Recommendation 5: When considering whether enrollment in a Cyber Charter School is in a dependent youth's best interest, a court should ascertain whether the child has the necessary skill set to succeed in an online learning environment, and whether the youth and family are prepared to invest the time and effort necessary for a successful cyber educational experience.

Recommendation 6: Approve "Considerations for Cyber School Enrollment for Students Before the Court" checklist (Attachment 4) to assist courts and other stakeholders in making decisions concerning Cyber Charter School enrollment and participation.

Recommendation 7: Dependency judges should have a representative of the Cyber Charter School appear and explain what the particular school can offer the youth and how the Cyber Charter School can meet the needs of the child.

Recommendation 8: Dependency judges, attorneys, parents, children and youth professionals should carefully weigh the strengths/weaknesses of a Cyber Charter program relative to the needs and abilities of the individual child for whom the program is being considered.

Recommendation 9: The court should monitor the child's progress and require the school to provide monthly progress reports.

Recommendation 10: Pennsylvania Department of Education should strengthen policing mechanisms for Cyber Charter Schools relative to attendance to improve accountability for online learning programs.

Recommendation 11: The ESTP Workgroup continue to support the Pennsylvania Department of Education's efforts to enhance the Pennsylvania Toolkit for School Attendance and Truancy Reduction, as well as the Child Welfare Resource Center's efforts to enhance truancy prevention training for child welfare professionals.

Recommendation 12: The ESTP Workgroup's recommendations regarding revisions to truancy laws governing school attendance as outlined in the 2012 Educational Success and Truancy Prevention Report be forwarded to the Juvenile Court Judges' Commission for review and possible action.

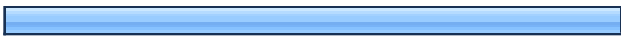

Educational Success & Truancy Prevention Workgroup Survey



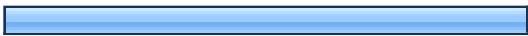

1. County:

	Response Count
	42
answered question	42
skipped question	0







2. Do you believe truancy is an issue in your county?

		Response Percent	Response Count
Yes		92.9%	39
No		7.1%	3
	answered question		42
	skipped question		0




3. Do you believe truancy is being handled more effectively in your county since 2010?

		Response Percent	Response Count
Yes		78.6%	33
No		21.4%	9
	answered question		42
	skipped question		0

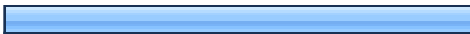

4. If yes, please check why (Check all that apply)

		Response Percent	Response Count
Increased collaboration on addressing truancy		81.8%	27
Increased stakeholder attention of the issue		54.5%	18
Truancy being addressed by your local children's roundtable		57.6%	19
Standardized truancy protocol agreed upon by stakeholders		63.6%	21
Effective truancy intervention and reduction programs		66.7%	22
Timely truancy referral response by children and youth agencies		60.6%	20
	Other (please specify)		11
answered question			33
skipped question			9

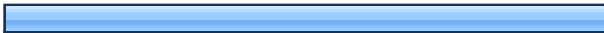

5. If no, please check existing barriers to addressing truancy:

		Response Percent	Response Count
No/minimal collaboration with stakeholders		88.9%	8
No consistency in handling referrals among school districts		77.8%	7
School districts are not filing truancy citations timely		77.8%	7
	Other (please specify)		6
answered question			9
skipped question			33



6. Since 2010, do you believe Truancy Elimination Plans are being used more often than in the past?

		Response Percent	Response Count
Yes		70.0%	28
No		30.0%	12
answered question			40
skipped question			2



7. Does your county have a standardized truancy protocol?

		Response Percent	Response Count
Yes		90.5%	38
No		9.5%	4
answered question			42
skipped question			0

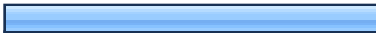

8. Does your county currently offer a cross systems truancy reduction program?

		Response Percent	Response Count
Yes		48.8%	20
No		51.2%	21
answered question			41
skipped question			1



9. Does your county have a liaison between school districts and the courts?

		Response Percent	Response Count
Yes		52.4%	22
No		47.6%	20
answered question			42
skipped question			0



10. Does your local children's roundtable address truancy issues regularly?

		Response Percent	Response Count
Yes		56.1%	23
No		43.9%	18
answered question			41
skipped question			1



11. Is there an educator or educational system representative who actively participates on your local children's roundtable?

		Response Percent	Response Count
Yes		62.5%	25
No		37.5%	15
answered question			40
skipped question			2




12. Is there a Magisterial District Judge who actively participates on your local children's roundtable?

		Response Percent	Response Count
Yes		32.5%	13
No		67.5%	27
answered question			40
skipped question			2

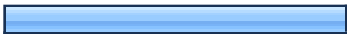


13. In the past 3 years, has your county had a full day meeting, or special community forum including stakeholders to address truancy?

		Response Percent	Response Count
Yes		50.0%	21
No		50.0%	21
answered question			42
skipped question			0

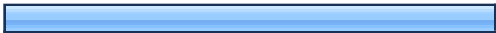

14. In the past 3 years, do you believe collaboration with stakeholders regarding truancy has:

		Response Percent	Response Count
Increased		71.4%	30
Decreased		2.4%	1
Stayed the same		26.2%	11
answered question			42
skipped question			0




15. Since 2010, do you believe the accuracy of truancy data has:

		Response Percent	Response Count
Improved		51.3%	20
Worsened		2.6%	1
Stayed the same		46.2%	18
answered question			39
skipped question			3





16. Since 2010, do you believe your county is reviewing and discussing truancy data with stakeholders:

		Response Percent	Response Count
More often		73.8%	31
Less often		0.0%	0
About the same		26.2%	11
answered question			42
skipped question			0



17. In the past three years, do you believe courts and children and youth agencies are working to address the root causes of truancy more effectively than in the past?

		Response Percent	Response Count
More often		81.0%	34
Sometimes		16.7%	7
Rarely		2.4%	1
Never		0.0%	0
answered question			42
skipped question			0



18. In the past 2 years, our county has seen a greater percentage of children/youth remaining in their home school upon placement

		Response Percent	Response Count
Always		4.8%	2
Usually		50.0%	21
Sometimes		40.5%	17
Rarely		4.8%	2
Never		0.0%	0
answered question			42
skipped question			0





19. Lack of transportation is a barrier to school stability

		Response Percent	Response Count
Yes		69.0%	29
No		31.0%	13
answered question			42
skipped question			0






20. School residency requirements pose a barrier to school stability

		Response Percent	Response Count
Yes		63.4%	26
No		36.6%	15
answered question			41
skipped question			1





21. Children living in congregate care facilities (including RTFs, group homes, etc.) with on-site schools attend the local public school

		Response Percent	Response Count
Always		0.0%	0
Usually		14.3%	6
Sometimes		50.0%	21
Rarely		28.6%	12
Never		7.1%	3
answered question			42
skipped question			0





22. Children attending schools on-site at congregate care facilities receive educational services and opportunities equal to that provided in the local public schools

		Response Percent	Response Count
Always		2.4%	1
Usually		16.7%	7
Sometimes		40.5%	17
Rarely		38.1%	16
Never		2.4%	1
answered question			42
skipped question			0



23. Children returning to public school receive full credit for work done in on-site schools and stay on track to graduate

		Response Percent	Response Count
Always		7.1%	3
Usually		38.1%	16
Sometimes		38.1%	16
Rarely		16.7%	7
Never		0.0%	0
answered question			42
skipped question			0





24. Children in dependent care have active, involved education decision makers (e.g., parent, foster parent, surrogate parent, or court-appointed educational decision maker)

		Response Percent	Response Count
Always		23.8%	10
Usually		61.9%	26
Sometimes		11.9%	5
Rarely		2.4%	1
Never		0.0%	0
answered question			42
skipped question			0






25. In the past 2 years, our courts have appointed educational decision makers for more children

		Response Percent	Response Count
Yes		61.0%	25
No		39.0%	16
answered question			41
skipped question			1


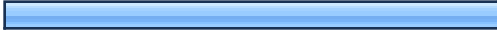

26. Educational well-being is discussed as often in dependency proceedings as safety and placement

		Response Percent	Response Count
Always		33.3%	14
Usually		42.9%	18
Sometimes		19.0%	8
Rarely		4.8%	2
Never		0.0%	0
answered question			42
skipped question			0

27. When the agency motions the court for a change in placement, does the motion include whether or not the education setting will change as a result of the placement change

		Response Percent	Response Count
Always		42.9%	18
Usually		21.4%	9
Sometimes		21.4%	9
Rarely		11.9%	5
Never		2.4%	1
answered question			42
skipped question			0

28. In your opinion how successful are dependent youth in cyber schools?

		Response Percent	Response Count
Very Successful		0.0%	0
As successful as in regular school		5.1%	2
Less successful as in regular school		74.4%	29
Unsuccessful		20.5%	8
answered question			39
skipped question			3

The Education of Children in Foster Care or Awaiting Foster Care Placement
Frequently Asked Questions

March 2013



pennsylvania
DEPARTMENT OF EDUCATION

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION

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Table of Contents

Background	1
Frequently Asked Questions	2

Background

It is well documented that frequent school changes are associated with an increased risk of failing a grade or dropping out of school. This is especially true for children who are displaced from their homes and/or separated from their families. Safety nets were designed for these children in federal law, specifically the *Fostering Connections to Success and Increasing Adoptions Act*¹ (*Fostering Connections*) of 2008 and the *McKinney-Vento Act*.

Under *Fostering Connections*, child welfare agencies are required to work in partnership with local school districts to allow the child to remain in the home school unless it is in the child's best interest to change schools. *Fostering Connections* also requires that, when a school change is needed, child welfare agencies promptly enroll children, who are in their care, into school and promptly provide all school records to the new school. Pursuant to *Fostering Connections* child welfare agencies are authorized to use certain federal funds to pay for reasonable expenses for travel to and from the child's home school.

The Pennsylvania Department of Public Welfare's (DPW), Office of Children, Youth, and Families has undertaken several initiatives focused on improving educational outcomes for children in dependent care. These initiatives are outlined in DPW Bulletins, which are referenced in these FAQs, and available in DPW's website at <http://www.dpw.state.pa.us>.

A Basic Education Circular (BEC) issued by the Pennsylvania Department of Education (PDE), entitled *Enrollment of Students*, addresses issues related to enrollment of children in foster care. The BEC strongly encourages school districts to develop agreements with child welfare agencies when it is in the child's best interest to remain in the home school even if the child is placed outside of the home school's attendance area or school district. School districts are encouraged, to develop formal relationships with children and youth agencies, with the specific goal of maintaining school stability.

Since the adoption of *Fostering Connections*, PDE has received many questions from school districts regarding their responsibility for enrollment of children in foster care, the above-mentioned agreements and the provision of transportation. The following FAQs provide guidance to school districts, parents, children and youth agencies both public and private agencies, and interested parties in the development and implementation of comprehensive plans to meet the social, familial, and educational needs of children in foster care.

¹ <http://www.govtrack.us/congress/bill.xpd?bill=h110-6893>

Frequently Asked Questions

1. Q: What school enrollment requirements apply to children in foster care?

A: School districts and charter schools are to follow the same procedures and rules for the enrollment of children in foster care that are outlined for the enrollment of resident students, as stated in the PDE's *Enrollment of Students BEC*. If the child is living in the district, the district shall enroll a foster care child the next business day, but no later than five (5) business days of application. The parent, guardian, or other person having control or charge of the child (which can be the child's foster parent or caseworker) making the application must provide: proof of the child's age; proof that the child is immunized; proof that the child is living in the school district; and a sworn statement that indicates whether the student has been or is suspended or expelled for offenses involving drugs, alcohol, weapons, infliction of injury or violence on school property (24 PS 13-1317.2(e.1)). Educational records may be provided by the child welfare agency, if available, or requested from the student's former school district or charter school. However, receipt of documents other than those stated above cannot be a condition precedent to enrolling the child in the school district. See *Enrollment of Students BEC*:

http://www.portal.state.pa.us/portal/server.pt/community/purdon's_statutes/7503/enrollment_of_students/507350

2. Q: Who may enroll a child in foster care, in a school district or charter school?

A: A child in foster care may be enrolled by a parent, guardian or other person having control or charge of the student. (See 22 Pa. Code §11.11(b)) Therefore, a foster parent, juvenile probation officer or caseworker may enroll the student. School districts must enroll and treat non-resident children placed with foster families in all respects as if they were residents of the school district. (See 24 P.S. §13-1305(a), *Nancy M. v. Scanlon*, 666 F. Supp. 723 (E.D. Pa. 1987))

3. Q: May enrollment of a child in foster care or a child awaiting foster care placement be delayed or denied due to the lack of education records from a prior school district?

A: No. Enrollment cannot be delayed because of a failure to obtain education records from a prior school district either in Pennsylvania or an out-of-state school. An enrolling school district should request the child's education records immediately, and the prior Pennsylvania district must transfer the child's records to the new district within 10 business days of the request. When children with Individualized Education Programs (IEP) transfer from another school district or another state, the new school district must provide the child with a Free and Appropriate Public Education (FAPE), which includes comparable services, until a new IEP is developed and agreed to by the person authorized to make special education decisions for the child, pursuant to the Individual with Disabilities Education Act (IDEA) and implementing

regulations. (34 CFR 300.323(e), (f). For a child in foster care, the person is usually the child's biological parent but may be a foster parent or a person appointed by a court or school district. (See *Transfer of Records BEC*)

http://www.portal.state.pa.us/portal/server.pt/community/purdon's_statutes/7503/transfer_of_records/507343

4. **Q: When a child welfare agency has legal custody of a foster child and is seeking enrollment of that child in a school district, must a representative of that agency be physically present to sign the enrollment forms?**

A: The decision to require a representative from the public child welfare agency to be physically present is well within the discretionary authority of local school officials. Regulations provide "The school district or charter school has no obligation to enroll a child until the parent or guardian or other person having control or charge of the student making the application has supplied proof of the child's age, residence and immunizations as required by law. (22 Pa. Code § 11.11(b)) This applies to resident children and nonresident children who are living in facilities, institutions, or foster homes. (22 Pa. Code § 11.11(c))

5. **Q: What additional documentation may the school district require for the enrollment of a child in foster care?**

A: If the child is living in the district where he or she seeks to enroll, the public or private children and youth agency may need to supply proof of that fact to the district. Such documentation would be provided to the district by the public or private agency or the foster parent. The school district may not inquire as to the reasons that a child was placed in foster care, or whether or when the child may return to live with a biological or adoptive parent. And, the school district may not require a statement from the biological or adoptive parent consenting to enrollment. See *Enrollment of Students BEC*:

http://www.portal.state.pa.us/portal/server.pt/community/purdon's_statutes/7503/enrollment_of_students/507350

6. **Q: May a child in foster care remain in the same school even after they move to a new foster placement in another school district?**

A: Yes, children placed in foster care may move from one foster home to another and such moves may involve school changes. Research shows that school changes significantly undermine academic progress. In accordance with the *Fostering Connections Act*, a child in foster care should remain in the same school district unless it is not in their best interest. Children and youth agencies have also been strongly encouraged to make placements that are close to the child's home school, when feasible, in order to promote school stability.

School districts are strongly encouraged to develop policies or agreements to enable a student who is in foster care to remain in the educational program in the same school or school district

even if that student is moved to a residence in another school attendance area within the district or in another school district. However, under current law, the school districts are not required to maintain the child in the same school district.

Under the *Fostering Connections Act*, child welfare agencies and local education agencies must coordinate to maintain a child in the same school when the child's living situation changes unless it is in the child's best interest to change schools or school districts.

7. Q: When an agreement is made to continue the education of a child in foster care in a nonresident school district, which school district is responsible for the cost of school transportation?

A: Unless the child is awaiting foster care placement and considered eligible under the McKinney-Vento Act (see below), there is no requirement that a school district provide school transportation beyond that which is required by its own transportation policy. School districts are encouraged to demonstrate flexibility and assist in providing transportation if it would promote school stability for a child. The child welfare agency may arrange transportation or compensate the foster parent or a school district for such transportation. Any arrangement that enables a child to stay in the same school placement (when the foster placement is in another school district or school attendance area) should be worked out in advance between the two districts and the child welfare agency, including the plan for transportation, if such transportation is required. PDE does not reimburse school districts for such transportation.

8. Q: How are school districts to interpret the term "awaiting foster care placement"? When is a child awaiting foster care considered to be homeless?

Children who are placed temporarily in shelters, emergency foster care, transitional foster care or respite care are considered to be awaiting foster care placement. These placement settings are intended to be short term, and do not typically last longer than 30 days. However, individual circumstances may, at times, require a longer length of stay. If the placement exceeds 30 days, contact should be made with the child welfare worker and the local McKinney-Vento Coordinator to determine if there is any valid reason to conclude that the child is still awaiting foster care placement.

Communication and collaboration among education and child welfare professionals is critical to support school stability and continuity for children in out-of-home care. The law requires child welfare and local education agencies to work together to promote school stability and continuity including trying to ensure children remain in the school in which they were enrolled at the time of placement when it is in their best interest. Best practice would suggest that decisions be made collaboratively between school personnel, child welfare agencies and any other individual involved in the child's case including the child, resource parent, child advocate and attorney. It is imperative that caseworkers and school district administration and staff work together to help ensure the educational progress of all students. Local school officials

should consult their Pennsylvania Education for Children and Youth Experiencing Homelessness Program's regional, site, and state coordinators, whenever necessary to determine, on a case-by-case basis, whether a child is awaiting foster care placement.

According to the *Fostering Connections Act*, in reference to transportation, the definition of foster care maintenance payments under Title IV-E has been broadened to include "reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement."

Homeless liaisons in school districts should assist with the enrollment and other needs of all homeless children. See Basic Education Circular (BEC), *Education for Homeless Youth*.
http://www.pde.state.pa.us/portal/server.pt/community/us_codes/7505/education_for_homeless_youth/507380.

9. Q: What school enrollment requirements apply to children who are awaiting foster care placement?

A: A child who qualifies as awaiting foster care placement is considered to be homeless, and is entitled to immediate enrollment. Although LEAs may require a parent or guardian of a homeless child to submit contact information, these students are not required to prove residency. See, *Education for Homeless Youth* BEC.

http://www.education.state.pa.us/portal/server.pt/community/basic_education_circulars/7497

10. Q: When enrolling in a new school, may the school district place the child in an alternative assignment or provide alternative education services if the child has a history of misconduct or was previously placed in an Alternative Education for Disruptive Youth Program?

A: No. Unless the child is currently expelled for an offense involving weapons, the child must be admitted to the regular classroom of the new school district. If the child is currently expelled for a weapon's offense the district may provide services in an alternate education program for the duration of the expulsion. 24 P.S. §13-1317.2(e.1). In addition, if a child who is eligible for special education is expelled, the child must continue to: (1) receive services so as to enable the child to continue to participate in the curriculum for all students, although in another setting;(2) to progress toward meeting the goals set out in the child's IEP; and (3) receive, as appropriate, a Functional Behavioral Assessment and behavioral interventions to prevent the recurrence of the behavior. 34 C.F.R. §300.530(d).

11. Q: Is placement of a child in the home of a resident under a “Lifesharing agreement” considered a foster care placement?

A: According to the Pennsylvania Department of Public Welfare, a Lifesharing home is considered a residential program. Lifesharing, also known as Family Living, supports individuals with intellectual disabilities to live with qualified unrelated adults who provide support in the home. Such a home would be considered a residential placement under Section 1306 of the School Code. As such, the school district in which the child is placed (under the Lifesharing agreement) would be responsible for providing educational services for the child. The child would be considered a “non-resident” student of that school district. And, for purposes of tuition for a student under a Lifesharing agreement, the school district that is the location of the parents’ residence would be responsible for the student’s tuition.

12. Q: May a school district release education records to a child welfare agency or caseworker?

A: Yes, the Uninterrupted Scholars Act (P.L. 112-278) made key revisions to the Family Educational Rights and Privacy Act (FERPA) that will make it easier for child welfare agencies to access education records.

This amendment creates a new exception under FERPA that authorizes an agency caseworker or other representative of a State or local child welfare agency, or tribal organization to have access to the student’s educational records without having to obtain parental consent or a court order. This exception applies to children for whom the public child welfare agency has legal responsibility for their care and protection, specifically those children in the legal custody of the Agency who are placed in out-of-home care. This would include children placed under a voluntary placement agreement and shared case responsibility youth who have been adjudicated dependent.

It is the position of both the Department of Public Welfare and the Department of Education that the individuals who can obtain education records under this exception, specifically those who have the right to access the child’s case plan, include the following:

- the child’s caseworker from the public children and youth agency;
- the child’s caseworker from a private children and youth agency with whom the public agency contracts; and
- the supervisors or managers of such agencies.

In order to obtain the student’s records, proof of this relationship with the child must be provided. This proof can be in the form of a court order or written notification on agency letterhead indicating that the agency has legal custody or is otherwise legally responsible for the care and protection of the child.

The records obtained pursuant to this exception may not be re-disclosed to any other person or entity unless those individuals or entities are engaged in addressing the student's educational needs and authorized by the child welfare agency or organization to receive such disclosures.

Child welfare agencies have a continuing obligation to work collaboratively with families and their LEAs to address the educational needs of children in dependent care. The amendment does not usurp the right of a student's parent to make all other decisions regarding the release of the child's education records, nor does it place the child welfare agency in the role of parent or educational decision maker. It merely allows child welfare agencies to obtain a student's education records in a more timely and efficient manner. As a result, the child welfare agency representative working with the family should explain to the parent and to the school entity that provides the records that, while the agency will have access to the education records, the parent still maintains the right to access the records directly from the school and the right to make decisions about the child's education. The child welfare worker should also make all efforts to keep parents informed and involved in the child's education.

In addition, the Uninterrupted Scholars Act also provides that, in cases where a parent is a party to a proceeding involving child abuse or neglect or a dependency matter, and a court order is issued authorizing the disclosure of education records, additional notice need not be provided to the parent by the educational agency before educational records are released.

When it is determined that it is in the best interest of a child in foster care to change school districts, the child welfare agency and the LEA must ensure that the child is immediately enrolled in the new school with all education records provided to the new school. See 42 U.S.C. §675(1) (G) (ii) (II).

13. Q: Who is the special education decision-maker for a child in foster care?

A: In most cases, the biological parent continues to be the child's special education decision-maker. Every child in foster care who is or might be eligible for special education must have a parent under IDEA. The parent under IDEA is the birth or adoptive parent if that person is locatable, the court has not terminated parental rights or limited the parent's right to make education decisions for the child, and the parent is "attempting to act" as the parent under IDEA. See 34 C.F.R. §300.30(b). A school district shall make reasonable efforts to locate and notify birth or adoptive parents of meetings, etc., and make accommodations to facilitate their participation. However, if that parent ***is not located*** or the parent has been located but is not "acting as the parent" in the special education process (for example is not attending meetings or responding to notices), and the child has a foster parent, ***the foster parent may become the child's parent under IDEA.*** A relative with whom the child is living who is acting as the child's parent can also be an IDEA parent (See 34 C.F.R. §300.30(a)). In addition, a court may appoint a surrogate parent/education decision maker. With respect to the initial evaluation of a child in foster care who has no active IDEA Parent, the court can subrogate the biological/adoptive parent's right to make education decisions and can appoint any person to consent to the evaluation. See 34 C.F.R. §300.300(a)(2)(iii), (3).

14. Q: When does a child in foster care, who is eligible for special education services, need a surrogate parent and what can school districts do about it?

A: When no IDEA parent can be located (the parents cannot, after reasonable efforts, be found, there is no foster parent, and there is no person other than a foster parent with whom the child is living who is acting as the parent) the local education agency should appoint a surrogate parent, whenever possible within 30 days. A surrogate parent should also be appointed for a child who qualifies as an unaccompanied homeless youth under the McKinney-Vento Act. In that case the LEA can appoint appropriate staff from the shelter where the child is living to serve as a temporary surrogate parent until a surrogate parent can be appointed. The Juvenile Court can also appoint a surrogate parent, particularly for a child who is living in a residential setting such as a group home or a residential treatment facility. See 20 U.S.C. §1415(b), 34 C.F.R. §§300.30(a) (3), 300.519(a), (c), (h). A Surrogate Parent Guide is available at <http://www.pattan.net/category/Resources/PaTTAN%20Publications/Browse/Single/?id=4dc09560cd69f9ac7fa50000>

15. Q: May a person who is employed by an agency that is involved in the education or care of a child such as a caseworker or current teacher be the child's surrogate parent under IDEA?

A: No. A surrogate parent cannot be a person who is employed by an agency that is involved in the education or care of a child such as a caseworker or current teacher. 34 C.F.R. §519(d) (2) (i). Federal regulations, 34 C.F.R. § 300.519, outline the duties of public agencies in assigning individuals to serve as a surrogate for the parent(s). Public agencies must ensure that a person selected as a surrogate parent is 1) not an employee of the State Educational Agency, the Local Educational Agency, or any other agency that is involved in the education or care of the child, 2) Has no personal or professional interest that conflicts with the interest of the child the surrogate parents represents, and 3) Has knowledge and skills that ensure adequate representation of the child. A person otherwise qualified to be a surrogate parent is not considered an employee of an agency solely because he or she is paid by the agency to serve as a surrogate parent.

16. Q: Does a school district have any responsibilities for educating children in foster care who are living in residential facilities?

A: Yes. The school district in which a residential facility (such as a group home or residential treatment facility) is located is responsible for providing or ensuring the provision of special education or regular education to children in dependent care and other school-aged children who live in those facilities. See 24 P.S. §13-1306. (See *Educational Programs for Students in "Educational Portions of Non-Educational Placements"*)
http://www.portal.state.pa.us/portal/server.pt/community/pa_codes/7501/educational_portions_of_non-educational_placements/507372.

Unless the child's needs or a court order dictates otherwise, a child in a residential facility should be educated in a regular school in the host school district. See 24 P.S. §13-1306, IDEA/Chapter 14 LRE provisions. Dependent children and other children with disabilities living in facilities are entitled to the same rights and protections afforded to other children as set out in 22 Pa. Code Chapters 14 and 15.

17. Q: What should a school district do to help a child in foster care graduate or stay on track to graduate?

A: Because children in foster care often change schools, they face significant barriers to meeting graduation requirements. School districts are urged to help students in foster care to receive a high school diploma by carefully reviewing all credits and partial credits earned by the student in prior settings and creating a "graduation plan" outlining all credits needed to graduate. All credits (partial or full) granted by a public school in this Commonwealth "shall be accepted by all public schools and institutions in this Commonwealth upon the transfer of a student." See 22 Pa. Code §4.74(c). Also, older youth who are still in care or who have aged out of care may seek to return to school. Students have a right to attend school where they are living until the end of the school term in which they turn 21. See 24 P.S. §§13-1301, 1305, 1306. School districts are urged to assist these students with re-enrollment and to work to enable them to earn a high school diploma by providing remedial help and access to credit recovery programs when needed.

18. Q: Does a school district have any obligation to help plan for a child in foster care who is transitioning out of school?

A: Yes. For students eligible for special education under the IDEA, the IEP in effect during the school year in which a student turns 14, and every year thereafter, must include transition goals and services to help the student make a successful transition to post-secondary education, employment, or community living when the student turns 21 or graduates. Students must be invited to IEP meetings when transition plans are being developed. If they do not attend the meeting, the school district must take steps to ensure that the students' interests and preferences are considered by the IEP team. With the consent of the parent under IDEA or the student if he or she has reached the age of majority, the school district must invite a representative of any participating agency that is likely to provide or pay for transition services, which can in some cases include the child welfare agency. 34 C.F.R §§300.321(b); 22 Pa. Code §14.131(a) (5).

In addition, child welfare agencies are required to ensure that a child in foster care who is sixteen years or older is receiving the necessary educational services to transition to independent living, pursuant to 42 Pa. C.S. § 6351. Local educational agencies are urged to cooperate and assist in this planning process when requested by the local child welfare agencies. In addition, a child who is "aging out" of care within 90 days must have in place a detailed transition plan that specifically addresses the child's educational needs.

(See 42 USC § 675(5)(H)) School districts are urged to work with child welfare professionals to assist in the development of that plan and identify possible educational and vocational training resources for the child. In addition, if the child is also eligible for special education services, such transition planning should be coordinated with the transition planning occurring within the school entity pursuant to the IDEA and state special education law.

19. Q: Are there any special programs or laws that support a child in foster care to have access to higher education opportunities?

A: Yes. There are many scholarship opportunities as well as federal and state funds available to children who have been in foster care. School counselors should consult with child welfare personnel about financial aid opportunities, such as the Education and Training Grants and other resources that are available to foster youth as well as any benefits or education support services that may be provided through the county child welfare agency or Independent Living Program. See 42 U.S.C. 677(b)(3)(F). School counselors should work with Children & Youth Education Liaisons and Independent Living Coordinators from the county's child welfare agency to identify youth in care in their schools who may need assistance to put them on track for college or may need help getting other support services available through the school. This may include ensuring that foster youth have access to college preparation programs such as Upward Bound and SAT preparation instruction that may be available to children in foster care at no charge. See 42 U.S.C. 677(b) (3) (F).

20. Q: Are school districts that provide educational services to children in foster care entitled to tuition reimbursement?

A: Yes. School districts that educate non-resident children in foster care are entitled to "payment on account of tuition" in accordance with 24 P.S. §25-2503.

21. Q: Must all County Children and Youth agencies have a "Central Point of Contact" for education matters?

A: Yes. The Office of Children, Youth, and Families Bulletin 3130-10-04 entitled "Educational Stability and Continuity of Children Receiving Services from the County Children and Youth Agency (CCYA) Including the Use of an Education Screen" issued September 17, 2010 clarifies the responsibilities of county agency personnel for the education of children receiving services by the child welfare agency. Each County Children and Youth Administrator must identify a staff member, called an "Education Liaison" to be trained in educational issues of most concern for children served by the child welfare system, for example: enrollment, special education services, school discipline, and the rights of children awaiting foster care placement.

22. Q: What is the Education Screen and who is responsible for completing the Education Screen for a child in foster care?

A: The Education Screen is a tool to identify the educational needs of a child in foster care. It was developed and issued along with the Office of Children, Youth and Families Bulletin Number 3130-10-04. Staff from county children and youth agencies and/or private providers with whom the agency contracted with were responsible for completing the Education Screen. School district personnel were encouraged to cooperate by providing as much information as allowed by law, but they were not responsible for completing the screen. Efforts are currently being made to streamline the screen to allow for easier use and discussions are occurring regarding future implementation. Although some county children and youth agencies have used the screen at their own discretion, full implementation of the screen has been delayed.

Education of Youth in Congregate Care Results of PCCYFS Survey February 6, 2013

At the November meeting of the ESTP Workgroup, Judge Kuhn asked PCCYFS staff to provide information on education in congregate care from the provider perspective to help the Workgroup understand the scope of services and gain a realistic picture of education for youth while they are in congregate care. With input from JLC and ELC staff, we developed a questionnaire using SurveyMonkey. We circulated the information to our member executives in mid-January for completion by agencies providing congregate care and/or educational services for youth while they are in congregate care.

The survey was comprised of questions addressing the following areas:

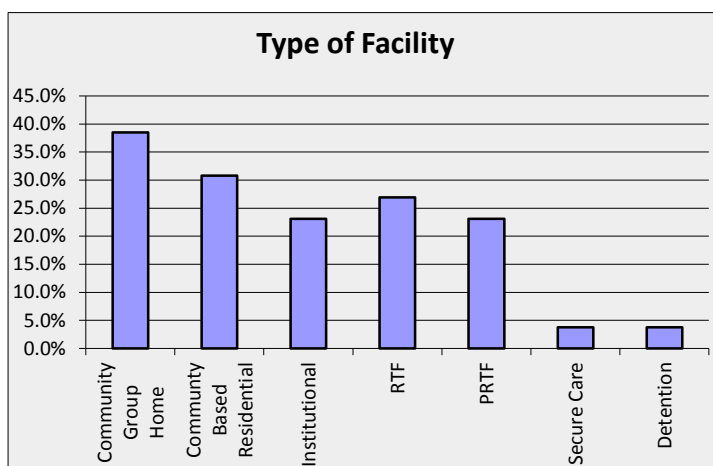
- Congregate Care Demographics – type of facility, population served, etc.
- Educational programs in the community – percent attending, types of programs, etc.
- On-grounds education provided – types of programs, youth served, hours of instruction, curriculum, teachers, educational decision makers, etc.
- Concerns/challenges/barriers – involving C&Y, LEA, transition, etc.

While only twenty providers completed the survey, we believe it gives a credible, first-glance impression of provider experiences in educating youth while they are in congregate care. The results reflect the following findings:

Congregate Care Demographics

Participants reflect the full spectrum of congregate care settings, as shown on this chart. Agencies may provide more than one type of congregate care setting, as described below:

- **Community Group Home**—A licensed or approved home providing 24-hour care for children in a small group setting that generally has from seven to twelve children.
- **Community Based Residential**—A 24-hour per day placement of a child in a non-secure facility which serves no more than 25 children. Basic services of the community, including the public school system, recreation and employment, shall be used as a part of the facility's program.
- **Institution**—A child care facility operated by a public or private agency and providing 24-hour care and/or treatment for children who require separation from their own homes and group living experience. These facilities may include: child care institutions; residential treatment facilities; maternity homes; etc.
- **RTF (Residential Treatment Facility)**—A facility serving children with mental illness or serious emotional disturbance in a short-term specialized mental health treatment environment.
- **PRTF (Psychiatric Residential Treatment Facility)**—A facility other than a hospital, that provides psychiatric services, to individuals under age 21, in an inpatient setting.
- **Secure care**—Care provided in a 24-hour living setting to one or more children who are delinquent or alleged delinquent, from which voluntary egress is prohibited.

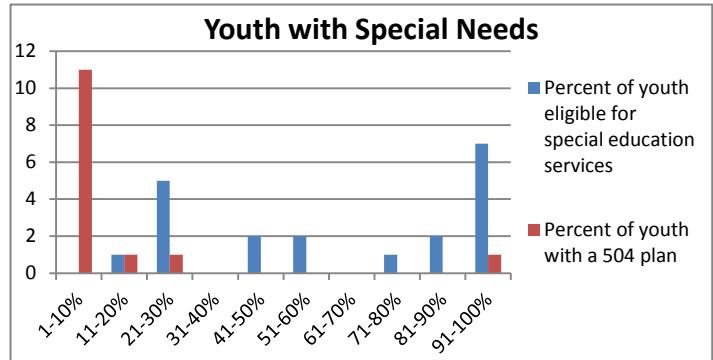


Education of Youth in Congregate Care – Results of PCCYFS Survey

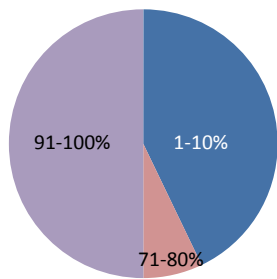
- **Secure detention**—A type of secure care located in a temporary 24-hour living setting, in which one or more delinquent or alleged delinquent children are detained.

Participating agencies came from across the state, and serve an average of nearly 110 youth each day. There was a wide range of length of stay, depending on the program and population, with most in the 6-9 month range and the majority 12 months or less, with a few reporting longer or shorter lengths of stay.

Regarding youth with special needs, most providers reported that less than 30% of their youth have a 504 plan. The percentage of youth eligible for special education services was much higher, with 30% of providers reporting that 95% or more of their youth qualify for special education services.



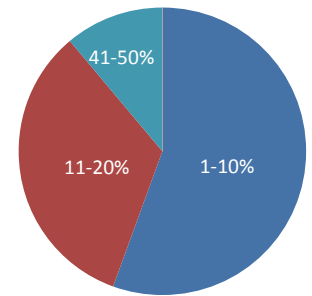
Attend Public School



Perhaps surprisingly, nearly 60% of survey respondents indicated that more than 70% of their youth attend public school in the community.

Interestingly, all respondents reported that less than 50% of youth in their programs attend a program or school in the community operated by an Intermediate Unit.

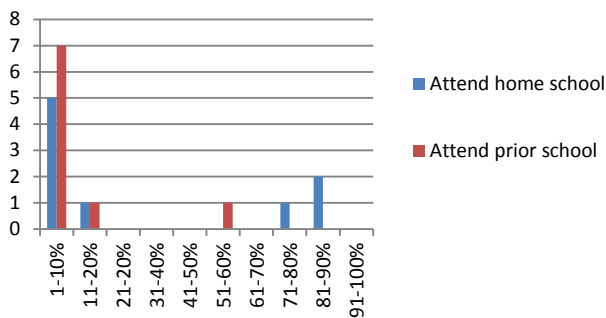
Attend IU Program



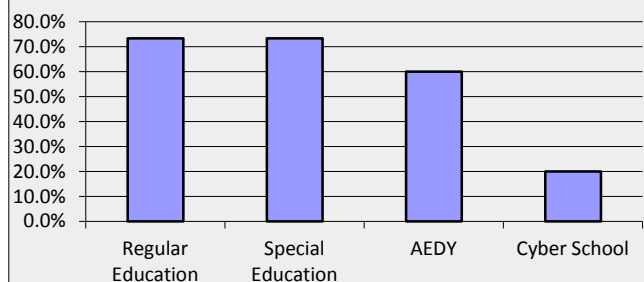
However, the majority of providers reported that most youth in their programs do not attend either their home or prior schools.

Of those attending school in the community, nearly three quarters were in either regular education or special education settings. Sixty percent are attending an Alternative Education for Disruptive Youth (AEDY) program, and 20% are in a cyber school.

Attend Home or Prior School

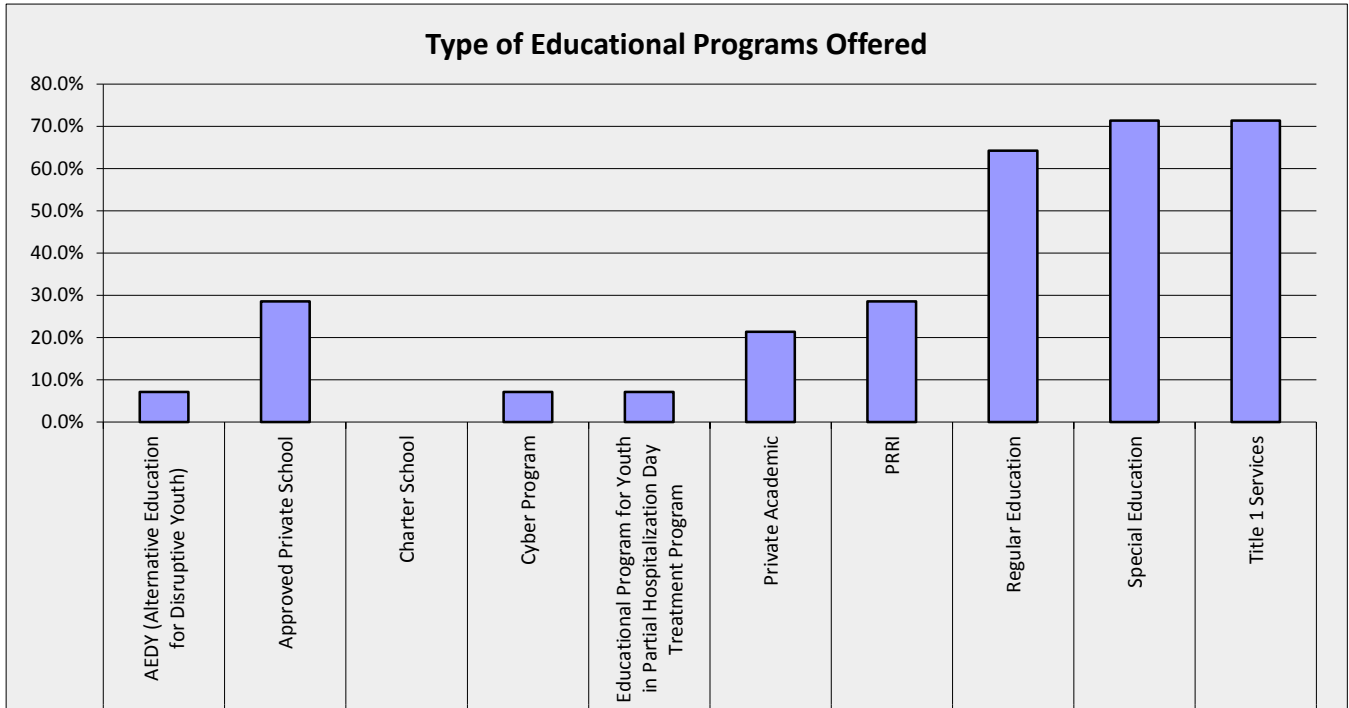


Community Public School Setting



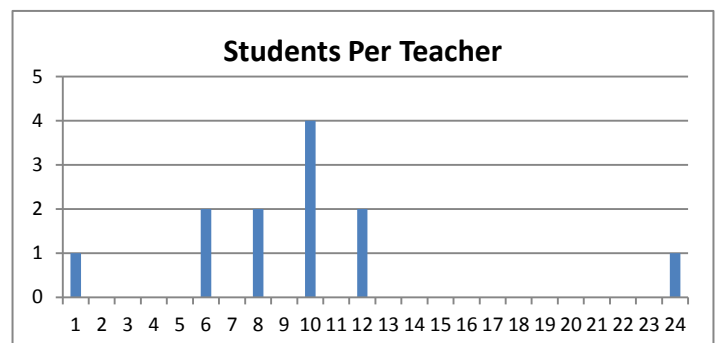
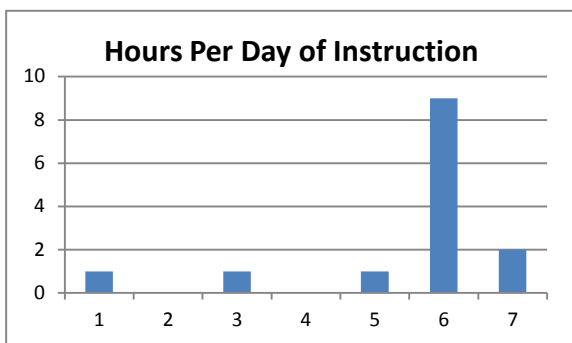
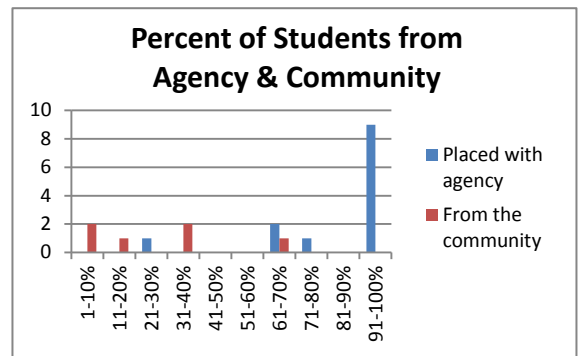
Education of Youth in Congregate Care – Results of PCCYFS Survey

Two-thirds of respondents offer on-grounds educational programs, as shown in the chart below. Providers also identified several other educational programs they offer, including summer programs, extended school year options, and tutoring services.



Additionally, nearly all respondents indicated that their on-site school is able to provide comparable services for youth with an IEP when they first arrive at the facility. The only dissenting respondent described the greatest barrier to doing so as *“the poor quality of IEPs from some school districts. Some have dual outcome goals, non-observable goals, non-objective goals, and many lack descriptions of the instructional strategies. 45-50 pages of generally useless information.”*

A number of programs serve students from the community in addition to those placed with their agency. Of programs serving youth from the community, just over 20% are AEDY programs, and nearly 65% are special education. The majority of programs provide at least 5 hours a day of instruction, and have a student to teacher ratio of twelve to one or less. Also, over 75% offer educational services year-round.



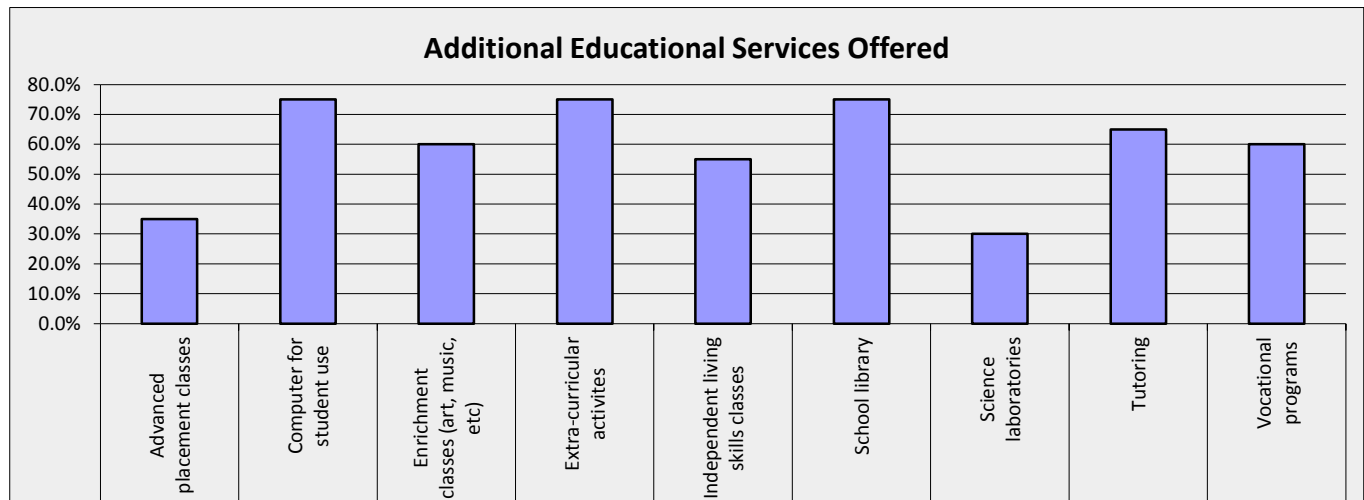
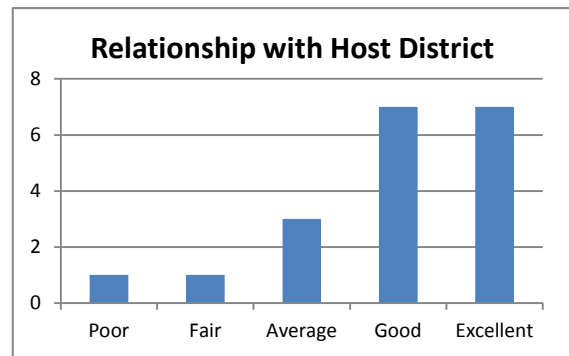
Education of Youth in Congregate Care – Results of PCCYFS Survey

In regards to school staff, the majority reported that they provide the teachers for their programs, with less than 10% being provided by the school district. Over 85% indicated that their teachers are Highly Qualified, with nearly 65% identifying that all their teachers meet those standards. In addition, 100% of respondents reported having certified special education teachers, including nearly 30% as having all their teachers certified.

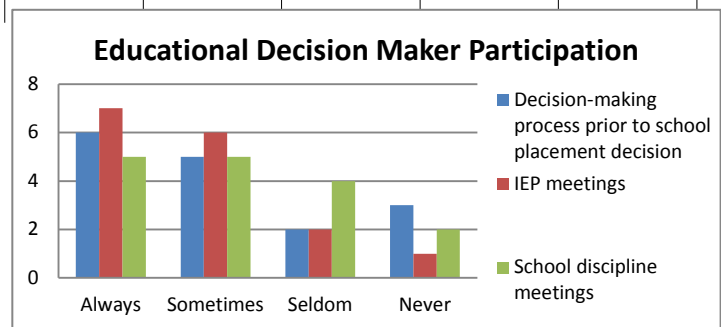
All respondents stated that their curriculum was approved by either the LEA or PDE. Half reported that all, with an additional 43% indicating that some, of their curriculum aligns with that of the host school district. Explanatory comments include:

- *School curriculum aligns with the Common Core Standards.*
- *Software packages have helped align curriculum with most school districts such as A+ learning as an additional resource to our approved PDE curriculum.*
- *The majority of the residents' home district is Philadelphia*
- *I checked some because I guess there must be some overlap. It has never been an issue that we examined. The host district has never been particularly significant, except for its participation in the 1306 process.*
- *Title 1 summer or recovery credits*

On a positive note, most providers indicated a good or excellent relationship with their host school district, which anecdotally has seemed to have improved over the past few years. Providers also offer a number of additional educational supports and services, as indicated in the chart below, that benefit their students.



There was some confusion regarding the questions about educational decision makers. While most indicated that youth served have an educational decision maker, we should have clarified the terminology as including a “surrogate parent” and also provided the option of parental involvement. That being said, providers indicated good involvement of educational decision makers at critical times, including prior to school placement and at meetings.



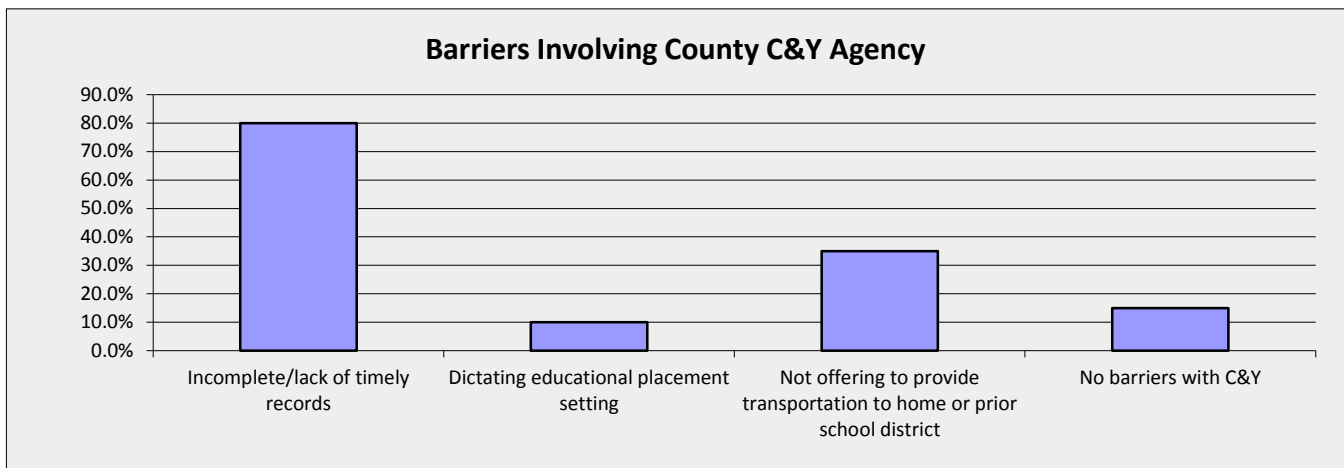
Education of Youth in Congregate Care – Results of PCCYFS Survey

The crux of both the survey and our efforts is to identify and strive to address and ameliorate challenges and barriers to educating youth while they are in congregate care. Providers were asked to identify barriers involving the county children and youth (C&Y) agency, host school district, and a youth's transition back to the home school district. The responses indicate that there again seems to be improvement overall compared to previous anecdotal reports.

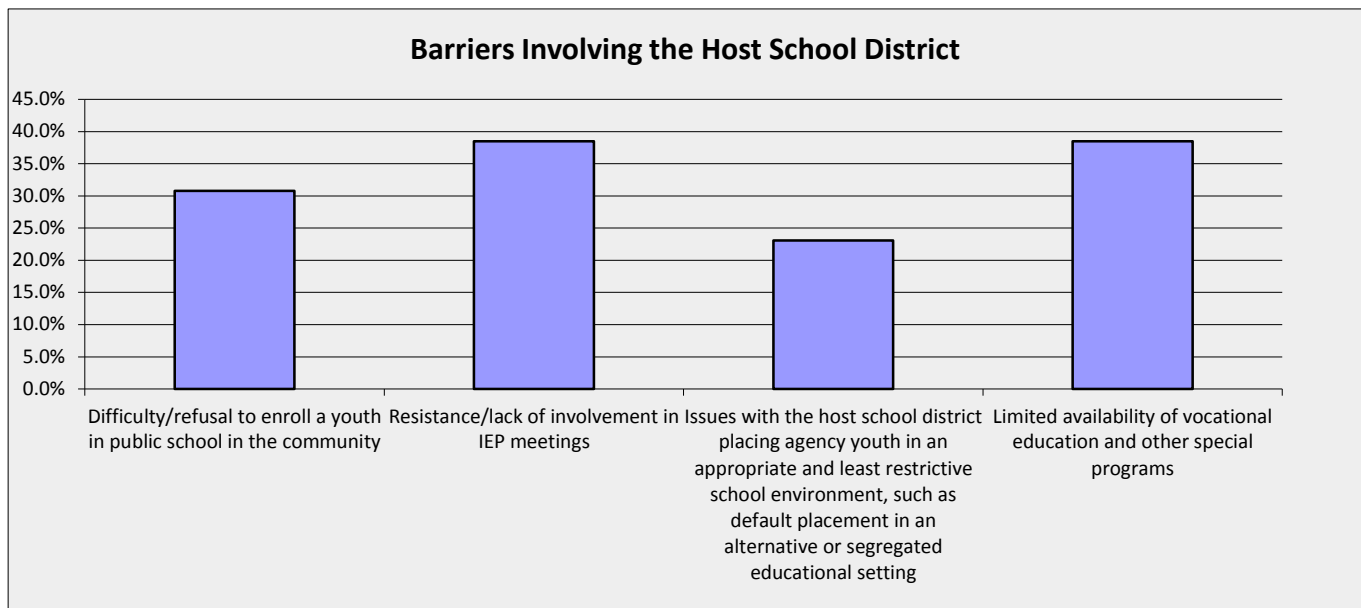
The biggest barrier involving the county C&Y agency by far was "incomplete/lack of timely records," underscored in the comments received:

- *Getting good records is the biggest challenge.*
- *Lack of records is more problematic when children had multiple placements and the home school district "loses track" of that student. In some cases, our discussions with home districts result in that district having no records of the child.*
- *In particular special education records*
- *They don't seem to be particularly relevant, and they really have no role in the education process.*

Other barriers are identified in the chart below.



Providers identified barriers involving the home school district more evenly, as seen below:



Education of Youth in Congregate Care – Results of PCCYFS Survey

Additional responses included the following:

- *Sometimes transportation is problematic for shelter youth in the first five days. Also, City of Pittsburgh bus passes is a challenge sometimes for our youth. Depending on their age and or issues, traveling via public transportation at times has been problematic, i.e. not going to school, getting into trouble on the way back or on the way to school.*
- *Children in our program typically emit behavioral barriers to placement in a less restrictive setting. They are aggression, self-injurious, and noncompliant. They don't tend to be acceptable for community schools, so the issue is generally moot.*
- *Regarding the first, it is a challenge to have permission for resource families to enroll children in school if we do not yet have a court order or written documentation of residency from the county. We hope [this will improve] with new legislation of the FERPA [USA - Uninterrupted Scholars Act].*
- *Excellent working relationship with our LEA*

Barriers involving a youth's transition back to the home school district were evenly split between transfer of records, transfer of credits and school placement setting. However, the barriers seem to be lessening, as reflected in the comments received:

- *Records sent upon request of school districts*
- *Again, hope to be resolved with FERPA*
- *None. Our school staff works closely and effectively with home school districts.*
- *None at this point – things are 100% better than they used to be. Used to be records and credits.*
- *Transfer of credits is less of an issue currently, since our school has been licensed as a private academic school. Prior to that time, transfer of credits were sometimes a point of contention.*
- *No issues with Philadelphia School District*

Finally, respondents were asked to describe other barriers or challenges. Their comments included the following:

- *Intermediate Unit as the LEA makes decisions based at times strictly on the educational needs of the youth versus using broader criteria presenting from the youth's previous and current mental health 24 hours needs*
- *Receiving educational records in a timely fashion*
- *Lack of participation from the host school and time enrollment in the correct educational setting.*
- *More availability of resources for transitional services*
- *Some school districts who are responsible for the payment of educational costs are continually delinquent on their payments, especially Philadelphia. There are clients that are in aged receivables for more than 2 years that Philadelphia SD has not paid for their costs. Host districts have sent and resent records, but it is an ongoing issue.*
- *The single greatest barrier is problems with the 1306 process. Our host district is willing to comply with the regulation, but our primary home district isn't paying their bills. The host, in turn, is not paying our bills. We are well into a 7 figure shortfall here.*

In addition to the survey, at their meeting last week, members of the PCCYFS Educational Services Workgroup offered the following comments and feedback for the ESTP Workgroup:

Barriers

- Getting school records and referral/background information
- Providers are held responsible, or even “blamed,” for youth's past lack of education/lack of an educational foundation

Education of Youth in Congregate Care – Results of PCCYFS Survey

- Potential impact and barrier of the Keystone Exams for this population
- Youth refusal to take tests, such as the PSSA
- Credits, i.e. not earning any credits at a detention center
- Need to continually educate the educators, on BECs, etc. (they don't know about them)
- Insufficient remuneration to cover educational costs – and no increase in per diem rate in 10 years – while being asked to do more
- Lack/need of vocational/career training and funding to support that, example of the national model PACTT has become, but need funding to sustain
- LEAs are often not particularly concerned about this population – consider them as a very small percentage of their responsibilities

Other considerations

- Parents of youth we work with are often leery of anything official and/or services for their children; chronic parental refusal of needed special education services affects their child's education level
- Would be beneficial to include in the Benchbook/Resource Guide about how to appoint an educational decision maker – who can/can't be one, why it's important, etc.
- Encourage judges to hold C&Y accountable by asking them in court for details on a child's education
- Ensure that Masters, who often are the ones hearing cases in many counties, are also educated on these issues

We hope this feedback helps give a more complete perspective on the realities of educating youth while they are in congregate care. Please let us know if we can be of further assistance as this Workgroup seeks to improve the education of youth in congregate care settings.

Respectfully submitted,

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CONSIDERATIONS FOR CYBER CHARTER SCHOOL ENROLLMENT FOR STUDENTS BEFORE THE COURT

IS CYBER CHARTER SCHOOL THE BEST EDUCATIONAL OPTION TO SUPPORT A STUDENT IN REACHING HIS/HER EDUCATIONAL GOALS?

This guide is intended for students, parents, caretakers, courts, attorneys and other court participants in dependency matters when considering enrolling or supporting a student who is already enrolled in a Cyber Charter School.

- 1. Has the parent/caregiver agreed to support the student's Cyber Charter School Enrollment by:**
 - ✓ Providing **daily adult supervision** during school hours
 - ✓ Preparing **weekly written plans** for assignments and tests
 - ✓ Checking Daily on the students' **completion of assignments**
 - ✓ Providing **daily online access** and technical support as needed
 - ✓ **Contacting the Cyber Charter School academic counselor**, monthly or as needed
 - ✓ Providing a **written specific plan for the student's recreational/ physical education activities**
 - ✓ Signing a **Release of information** as needed.
- 2. Has the student agreed to participate in the Cyber Charter School and follow its rules and policies?**
- 3. Has written confirmation been provided that the student will remain enrolled in his/her current home school until the cyber program is prepared to enroll the student and commence immediate instruction?**
- 4. Has the Cyber Charter School Representative provided written confirmation that he/she will timely provide the following?**
 - ✓ A **designated Cyber Charter Contact**
 - ✓ School supplies, books, **computer equipment**
 - ✓ All **education records** as requested by authorized recipients
 - ✓ **Notification of student's attendance violations** as required by PA Department of Education to parent/caregiver, home school and designated monitor
 - ✓ **Confirmation that Cyber School Program corresponds with the home school program** and student will remain on track in grade progression and graduation
 - ✓ Confirmation by both the Cyber Charter School and Home School District that **credits received while in Cyber Charter School will be accepted** by the home school district
 - ✓ Confirmation that the student's **special education plan or other special plan will be implemented**, monitored and updated as needed
- 5. Have court participants including judicial officer, parent/caregiver, student, attorneys, agency service provider, Education Decision Maker (when applicable) agreed to:**
 - ✓ A specific timeframe for the student's attendance in the Cyber Charter School?
 - ✓ A designated monitor who will monitor compliance with these conditions and report to the court and court participants on a pre-determined time schedule?

