

Fostering Connections Act: Improving Outcomes for Older Youth in Care

Andrea Khoury

Kristin Kelly

National Child Welfare Resource
Center on Legal and Judicial Issues

Andrea.khoury@staff.abanet.org

Kristin.kelly@staff.abanet.org

Studies have consistently shown poor outcomes for youth who emancipate from foster care

- About 20,000 youth emancipate from foster care each year
- Up to 50% of youth former foster youth end up homeless within 18 months of emancipation
- 27% of the homeless population spent some time in foster care
- 4 years after leaving care, 42% of youth have become parents
- 4 years after leaving care, 46% of youth lack a high school diploma
- Less than half of foster youth are employed 2- 4 years after leaving foster care; only 38% of former foster youth have maintained employment for at least one year
- Parents with a history of foster care are almost twice as likely as parents with no such history to see their own children placed in foster care or become homeless

Eliminates Disincentive to Permanency



- Extends eligibility for Independent Living Services to youth who enter kinship guardianship or were adopted at age 16 or older.
- Extends eligibility for Education Training Vouchers (ETVs) to youth who enter kinship guardianship or were adopted at age 16 or older.

Current Requirements for Case Reviews

- At least once every 6 months for all Title IV-E eligible youth (including youth over 18).
- The court must find what services are needed for a youth 16 and older to transition from foster care to independence.
- The court must find that reasonable efforts are being made to finalize the permanency plan.
 - Permanency hearing must be held under conditions that support active engagement of youth in key decisions
- States must implement procedural safeguards to ensure that at all hearings, including “any hearing regarding the transition of the child from foster care to independent living,” the court consults “in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.”

42 U.S.C. § 675(5); 45 C.F.R. § 1356.21(b)(2)(i).

New Requirement for Transition Planning



Each state's **case review system** must include procedures that ensure that:

During the 90-day period immediately prior to the date the child will attain age 18 (or other age if the state elects), the agency must provide the child with assistance and support in developing a **transition plan** that is personalized at the direction of the child, includes specific options on **housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services**, and is as detailed as the child may elect.

42 U.S.C. § 675(5)(H).

Older Youth: Transition Plan

- Helps older youth transition to adulthood
- **Requires** personal transition plan for youth within 90 days prior to exiting care
- Must be youth-directed
- An agency caseworker must provide the youth with assistance and support in developing the transition plan
- This plan complements the independent living service plan that is required for youth age 16

Judicial Considerations: Transition Planning

- Law requires youth play an active role in the planning for their present and future
 - Engage youth in all court proceedings and encourage their participation
 - Questions should be addressed to the youth to encourage participation
 - Hearings must provide ample opportunity/time for youth to discuss transition plan
 - Youth must be prepared for transition planning discussions
 - Ensure youth is notified of court hearings and is present
 - Court orders should document if the youth is present and if not, why not and what assistance, such as transportation, should be provided by stakeholder parties
- Court should consider holding additional hearings or extending care until the court is satisfied with the transition planning
- Inquire about and **review** transition plan (courts can play an important role in monitoring the development of the transition plan)

Judicial Considerations: Transition Plan

TRANSITION PLAN

- Ask youth whether she helped develop plan and if she agrees with it?
- Does the youth know that she can stay in care past 18 (if the state law allows) and that she can re-enter care? Does she know how to re-enter care?

EDUCATION

- What is the youth's plan for post-secondary education or training?
- What services has the youth received to prepare for and apply to post-secondary education or training, including financial aid applications?
- Has the young adult accessed Chafee services and Education and Training Vouchers (ETVs)?
- Does the youth have an educational advocate?

Judicial Considerations: Transition Plan

EMPLOYMENT

- What is the source of current and future income (job, training, educational program) after discharge? If working, where are they working?
- Is there a juvenile record that would prevent the youth from securing employment that should be expunged or sealed? Who is assisting the youth with this?

Judicial Considerations: Transition Plan

HEALTH

- What is the source of future health insurance coverage? (they must re-apply for Medicaid if necessary)?
- What behavioral health, mental retardation, drug/alcohol or medical services are in place for the youth if continued services are needed?
- Who is the youth's current doctor/dentist? Can the youth remain with that doctor? If not, what is the plan for switching?
- Does the youth understand she can designate someone to make health care treatment decisions on her behalf in foster care if the youth is unable to do so and does not have or want a relative who would otherwise be so designated?

Judicial Considerations: Transition Plan

HOUSING

- Where does the youth currently reside?
- What is the youth's/young adult's plan for housing?
- Does the youth have a general understanding of tenant and homeowner rights?
- Does the youth have an understanding of the basic governmental, community and housing services available to them after discharge?
- Is the youth a member of a special population (e.g. LGBTQ or parenting)? Are there special considerations to take into account so those youth are protected?
- Does the plan include a guaranteed, stable, appropriate, quality housing arrangement that can be expected to last for not less than one year. In addition, the transition plan should include a longer-term(3 year) housing plan as well as contingency plans.

Judicial Considerations: Transition Plan

RELATIVES AND PERMANENT CONNECTIONS

- Who are his/her permanent connections?
- Who are the stable adults the young adult is able to identify as resources he or she can rely on for advice and in emergencies?
- What is the plan for the youth/young adult to be connected to siblings and other relatives?

Court attendance policy

What type of hearing

- Shelter Care
- Adjudication
- Disposition
- Permanency Planning/Review Hearing
- Termination of Parental Rights
- Post TPR hearings

Presumption that youth will be present

- Based on age?
- Always if child has a lawyer? What if child doesn't have a lawyer?
- If the child requests to be present?
- Judge should inquire at the beginning of every hearing whether the youth is present and if not, why not - document

Court Attendance Policy

Representation

- State law dependent
- Ideal: Lawyer for all children in foster care
- Consider appointing traditional lawyer if not already appointed
 - Older youth
 - When youth's opinion differs from GAL/CASA
 - Complex Situations
 - Special education issues
 - Residential placement
 - Cross over

Court Attendance Policy

Reasons for exclusion

- Youth doesn't want to attend
 - After GAL/Lawyer fully explains and prepares youth
 - GAL/Lawyer provides explanation to judge
 - Youth signs document or writes something to the judge
- Judge finds it's not in child's best interests
 - Hold evidentiary hearing if a party objects to child's presence
 - Sexual or severe physical abuse details will be discussed
 - Require mental health professional testimony/documentation
- Document in court order reason for exclusion

Court Attendance Policy

Consider alternatives to exclusion

- Exclude parent/guardian
- Have youth attend for part of hearing
- Talk to judge in chambers
- Video technology – (e.g. Skype)
- Letter
- Hearsay statements

Transportation

- Custodian's responsibility
- Encourage foster parent/group home staff/responsible relative to attend and transport
- Transportation should not be reason for exclusion

Court Attendance Policy

Notice

- Every child should get notice sent to placement
- Child friendly language

Court Order

- Document whether child was present
- Document whether child should be brought

Court Attendance Policy

Scheduling

- Time certain/Block hearings
- After school hours
- If youth is present, call that case first

Support person

- Allow youth to bring a supportive person

Waiting area

- Child friendly – books, toys, description of court process (age appropriate)

Court Attendance Policy

Preparation

- GAL should prepare youth to attend court (separate policy/training how to do that)
- S/W should prepare youth to attend court
- F/P or congregate care staff should prepare youth to attend court

During the hearing

- Judge should engage the child and explain proceeding/ruling (separate policy/training how to do that)

Debriefing

- GAL should discuss the hearing with the youth after the hearing is concluded
- S/W and F/P should know how to get in touch with GAL/lawyer if youth has additional questions or concerns about the hearing

Extension of Care to Age 21



- Beginning 10/1/10, provides federal support to states that **elect**, via state plan, to support youth in foster care, kinship or adoptive families to age 19, 20 or 21, (if less than 21, agency must include written description to RO in title IV-E plan as to why choosing lower age) if youth is:
 - Completing high school or an equivalency program
 - Enrolled in a post-secondary or vocational school
 - Participating in a program to promote employment
 - Employed for at least 80 hours a month; or
 - Incapable of doing any of the above activities due to a medical condition (states determines criteria - documented regularly)
- States may choose to allow IV-E reimbursement to one or more of these groups.
- States determine the criteria for education and how to obtain assurances that youth is in education program or employed

Extension of Care to Age 21

- If agency wants to extend assistance beyond age 18 but lower than age 21 (i.e., age 19 or 20) it must include a written description to the Regional Office (RO), in the title IV-E plan amendment, as to why the agency is choosing a lower age.
- Must include programmatic or practice rationale for the lower age.
- The age the agency selects for the definition of “child” must apply to the title IV-E foster care, adoption assistance, and if applicable, guardianship assistance programs.

- Permits federal support for youth 18 and older placed in “supervised independent living setting”
 - Agency has wide discretion
 - No further regs will be issued
 - Reasonably interpreted as consistent with law, including flexibility with licensing. Some instances where money could go directly to youth
 - Encourage agency to be innovative in determining the best living arrangements that could meet an older child’s needs for supervision and support as she moves toward independence – continue to work with youth to form permanency connections with caring adults
 - For example, a title IV-E agency may determine that when paired with a supervising agency or supervising worker, host homes, college dormitories, shared housing, semi-supervised apartments, supervised apartments or another housing arrangement meet the supervised setting requirement

Why should there continue to be court oversight?

- Requires all Title IV-E requirements to apply to youth in care older than 18, including judicial oversight. Reasonable efforts can be made toward independence
- The court review structure creates and enforces deadlines for planning and implementation.
- Courts have an established process of fact finding and record keeping that helps hold people accountable and ensures a more coherent planning process over time.
- Courts stand apart from the agency, the family, and others involved in the case, judges bring an important objectivity to the review process.
- Judges are the only individuals with authority to order people to act.

IV-E Requirements

Removal from Home

- Court ordered removal prior to age 18
- Voluntary placement agreement prior to age 18
- Court ordered removal after attaining age 18
- Voluntary placement agreement after attaining age 18
- Trial independence and breaks in foster care

Placement and Care

- Written authorization prior to age 18
- Voluntary placement agreement after attaining age 18
- Court orders after attaining age 18

AFDC Eligibility

- For a youth age 18 or older who is entering or reentering foster care after attaining age 18 consistent with the criteria above, AFDC eligibility is based on the youth without regard to the parents/legal guardians or others in the assistance unit in the home from which the youth was removed as a younger child (e.g., a child-only case).

Judicial Considerations: Extension of Care

- If state extends foster care beyond 18, review hearings must be held
 - State may need to amend state law to extend court jurisdiction beyond 18
- The court must hold the agency accountable for continuing to seek permanency for youth and young adults past age 18
 - Another Planned Permanent Living Arrangements (APPLA) should only be used in extreme cases and with documented compelling reasons
 - Must decide on case by case basis – can't say every child over a certain age has APPLA as plan

Caseworker visits

- Monthly caseworker visits include youth over 18
- Well planned and focused on issues pertinent to case planning and service delivery
- Youth and social worker should determine jointly the content of the visit
- State must collect data on percentage of children who are visited by caseworker monthly
 - This data collection doesn't involve youth over 18

Other provisions

- AFCARS – if state extends care, state must collect and report data to AFCARS on all youth receiving IV-E payment including youth over 18
- NYTD – youth over 18 must be considered to be in foster care
- Monitoring – CFSR and Title IV-E eligibility reviews will include a youth 18 and over who are receiving Title IV-E payment
- Child of a parent in foster care – For states that extends IV-E foster care assistance to youth age 18 and older, the requirement to cover the costs of the child of the parent in foster care will also apply to the youth 18 and older in a foster family home, child care institution or supervised independent living setting
 - Medicaid also applies to that child

Researchers have identified common characteristics of effective programs for teens (Hall, Israel and Shortt, 2004):

- Youth feel a sense of independence through participation in the program, including financial independence (wages or stipend).
- Programs offer job skills, job preparation, job training, and actual employment opportunities.
- Schools and principals are active partners.
- Youth are supported as they work to navigate life after high school.
- Youth voices are incorporated into decision making, and participants feel that the time they have dedicated counts.
- Youth interact with peers and adults, including community and business leaders.
- Youth are exposed to life outside of their immediate neighborhood.
- Programs are flexible.

Case Planning for Young Adults

- Case plans are developed jointly with the youth...The case plan reflects agreements made between the agency and the youth to obtain independent living skills and the benchmarks that indicate how both know when independence can be achieved.
- Periodic reviews involve youth and focus on whether the youth is safe in his/her placement, whether continued foster care is appropriate, whether appropriate and meaningful independent living skill services are being developed and the progress made towards achieving independence on a projected date.
- Permanency hearings are held under conditions that support active engagement of the youth in key decisions. Permanency hearings provide ample time and opportunity for the youth to discuss his/her transition plan.

Resources

- **American Bar Association Bar-Youth Empowerment Project**
www.abanet.org/child/empowerment
- **Sample State Legislation to Extend Support Beyond Age 18**
www.abanet.org/child/empowerment
- **National Foster Care Coalition FAQ on Older Youth and Fostering Connections**
www.abanet.org/child/empowerment/nfcc_faq_older youth.pdf
- **Improving Outcomes for Older Youth**
<http://www.nrcys.ou.edu/yd/>
- ***Charting a Better Future for Transitioning Foster Youth: Report from a National Summit on the Fostering Connections to Success Act***
http://www.americanbar.org/groups/youth_at_risk.html

Contact Information



Andrea Khoury

National Child Welfare Resource Center

On Legal and Judicial Issues

202-662-1703

Andrea.khoury@americanbar.org

Kristin Kelly

National Child Welfare Resource Center

On Legal and Judicial Issues

202-662-1733

Kristin.kelly@americanbar.org