

STUDENTS RESIDING IN LICENSED CHILDREN'S INSTITUTION (LCI) OR FOSTER FAMILY HOMES

Definition

Licensed Children's Institution (LCI)

As used in this article, "licensed children's institution" means a residential facility that is licensed by the State or other public agency having delegated authority by contract with the state to license, to provide nonmedical care to student, including, but not limited to, students with a disability. LCI includes a group home as defined by subdivision (g) of § 80001 of Title 22 of the California Code of Regulations. As used in this article and Article 3 (commencing with § 56836.16) of Chapter 7.2, a LCI does not include any of the following:

1. A juvenile court school, juvenile hall, juvenile home, day center, juvenile ranch or juvenile camp administered pursuant to Article 2.5 (commencing with § 48645) of Chapter 4 of Part 27.
2. A county community school program provided pursuant to § 1981.
3. Any special education programs provided pursuant to § 56150.
4. Any other public agency.

Foster Family Home

As used in this article, "foster family home" means a family residence that is licensed by the state, or other public agency having delegated authority by contract with the state to license, to provide 24-hour nonmedical care and supervision for not more than six foster children, including, but not limited to, students with a disability. Foster family home includes a small family home as defined in paragraph (6) of subdivision (a) of § 1502 of the Health and Safety Code.

School of Origin

"School of origin" means the school that the foster child attended when permanently housed, or the school in which the foster child was last enrolled. If the school the foster child attended when permanently housed is different from the school in which the foster child was last enrolled, or if there is some other school that the foster child attended with which the foster child is connected and which the foster child attended within the immediately preceding 15 months, the liaison, in consultation with and the agreement of the foster child and the person holding the right to make educational decisions for the foster child, shall determine, in the best interests of the foster child, the school that shall be deemed the school of origin.

Legal Requirements

It is the intent of the Legislature to ensure that all students in foster care, and those who are homeless as defined by the federal McKinney-Vento Homeless Assistance Act, have a meaningful opportunity to meet the challenging state student academic achievement standards to which all students are held.

In fulfilling their responsibilities to these students, educators, county placing agencies, care providers, advocates, and the juvenile courts shall work together to maintain stable school placements and to ensure that each student is placed in the least restrictive educational programs, and has access to the academic resources, services and extracurricular and enrichment activities that are available to all students. In all instances, educational and school placement decisions must be based on the best interests of the child.

LCI Prohibition

A LCI may not require that a child be identified as a student with a disability as a condition of admission or residency.

Placing Agency Requirements

Every agency that places a student in a LCI shall notify the district at the time a student is placed in a LCI. As part of that notification, the placing agency shall provide any available information on immediate past educational placements to facilitate prompt transfer of records and appropriate educational placement. Nothing in this section shall be construed to prohibit prompt educational placement prior to notification.

At the time of placement in a LCI or foster family home, each court, regional center for the developmentally disabled, or public agency shall identify all of the following:

1. Whether the courts have specifically limited the rights of the parent or guardian to make educational decisions for a student who is a ward or dependent of the court.
2. The location of the parents, in the event that the parents retain the right to make educational decisions.
3. Whether the location of the parents is unknown.

Least Restrictive Requirements

A student placed in a LCI or foster family home shall attend programs operated by the district, unless one of the following applies:

1. The student is entitled to remain in his or her school of origin pursuant to paragraph (1) of subdivision (d) of § 48853.5.
2. The student has an IEP requiring placement in a nonpublic, nonsectarian school or agency, or in another district.
3. The parent or guardian or other person holding the right to make educational decisions for the student pursuant to § 361 or 727 of the Welfare and Institutions Code or § 56055, determines that it is in the best interests of the student to be placed in another educational program.

Before any decision is made to place a student in a juvenile court school as defined by § 48645.1, a community school as described in §§ 1981 and 48660, or other alternative educational setting, the parent or guardian or person holding the right to make educational decisions for the student pursuant to § 361 or 726 of the Welfare and Institutions Code or § 56055, shall first consider placement in the general public school.

If any dispute arises as to the school placement of a student subject to this section, the student has the right to remain in his or her school of origin pending resolution of the dispute. The dispute shall be resolved in accordance with the existing dispute resolution process available to any student served by the district.

Foster children living in emergency shelters, as referenced in the federal McKinney-Vento Homeless Assistance Act (42 USC § 11301 et seq.), may receive educational services at the emergency shelter as necessary for short periods of time for either of the following reasons:

1. For health and safety emergencies.
2. To provide temporary, special and supplementary services to meet the student's unique needs if a decision regarding whether it is in the student's best interests to attend the school of origin

cannot be made promptly, it is not practical to transport the student to the school of origin and the student would otherwise not receive educational services.

The educational services may be provided at the shelter pending a determination by the person holding the right to make decisions regarding the educational placement of the student.

All educational and school placement decisions shall be made to ensure that the student is placed in the least restrictive educational programs and has access to academic resources, services, and extracurricular and enrichment activities that are available to all students. In all instances, educational and school placement decisions shall be based on the best interests of the student.

In providing appropriate programs to students with a disability residing in LCIs or foster family homes, the district shall first consider services in programs operated by public education agencies for students with a disability. If those programs are not appropriate, special education and related services shall be provided by contract with a nonpublic, nonsectarian school.

Rights of Foster Children Removed from Their Home or Transferred

This section applies to any foster child who has been removed from his or her home pursuant to § 309 of the Welfare and Institutions Code, is the subject of a petition filed under § 300 or 602 of the Welfare and Institutions Code, or has been removed from his or her home and is the subject of a petition filed under § 300 or 602 of the Welfare and Institutions Code.

Each district shall designate a staff person as the educational liaison for foster children. In a district that operates a foster children services program pursuant to Chapter 11.3 (commencing with § 42920) of Part 24, the educational liaison shall be affiliated with the local foster children services program. The liaison shall do all of the following:

1. Ensure and facilitate the proper educational placement, enrollment in school and checkout from school of foster children.
2. Assist foster children when transferring from one school to another or from one district to another in ensuring proper transfer of credits, records and grades.

This section does not grant authority to the educational liaison that supersedes the authority granted under state and federal law to a parent or guardian retaining educational rights, a responsible adult appointed by the court to represent the student pursuant to § 361 or 726 of the Welfare and Institutions Code, a surrogate parent, or a foster parent exercising the authority granted under § 56055. The role of the educational liaison is advisory with respect to placement decisions and determination of school of origin.

At the initial detention or placement, or any subsequent change in placement of a foster child, the district serving the foster child shall allow the foster child to continue his or her education in the school of origin for the duration of the academic school year.

The liaison may recommend that the foster child's right to attend the school of origin be waived and the foster child be enrolled in any public school that students living in the attendance area in which the foster child resides are eligible to attend, so long as the decision is made in consultation with, and in agreement with, the foster child and the person holding the right to make educational decisions for the foster child, and the decision is in accordance with the foster child's best interests.

Prior to making any recommendation to move a foster child from his or her school of origin, the liaison shall provide the foster child and the person holding the right to make educational decisions for the foster child with a written explanation stating the basis for the recommendation and how this recommendation serves the foster child's best interest.

If the liaison, in consultation with the foster child and the person holding the right to make educational decisions for the foster child, agrees that the best interests of the foster child would best be served by his or her transfer to a school other than the school of origin, the foster child shall immediately be enrolled in the new school.

The new school shall immediately enroll the foster child even if the foster child has outstanding fees, fines, textbooks or other items or moneys due to the school last attended or is unable to produce records or clothing normally required for enrollment, such as previous academic records, medical records (including immunization records), proof of residency, other documentation (including IEPs), or school uniforms.

The liaison for the new school shall, within two business days of the foster child's request for enrollment, contact the school last attended by the foster child to obtain all academic and other records. All required records shall be provided to the new school regardless of any outstanding fees, fines, textbooks, or other items or moneys owed to the school last attended. The school liaison for the school last attended shall provide all records to the new school within two business days of receiving the request.

If any dispute arises regarding the request of a foster child to remain in the school of origin, the foster child has the right to remain in the school of origin pending resolution of the dispute. The dispute shall be resolved in accordance with the Uniform Complaint Procedures of the district, as described in 5 C.C.R. § 4600.

The district and the county placing agency are encouraged to collaborate to ensure maximum utilization of available federal monies, to explore public-private partnerships, and to access any other funding sources to promote the well-being of foster children through educational stability.

Residential and Non-Educational Costs

If a district, SELPA or county office does not make the placement decision of a student with a disability in a LCI or in a foster family home, the court, regional center for the developmentally disabled, or public agency, excluding a district, placing the student in the institution, shall be responsible for the residential costs and the cost of non-education services of the student. The district serving the foster youth is required to make any residential placement necessary for the student to receive educational benefit, regardless of the residential or home placement made by any other agency.

Residential Status

Students with a disability placed in a LCI or foster family home by a court, regional center for the developmentally disabled, or public agency, other than an educational agency be considered residents of the geographical area of the local plan in which the LCI or foster family home is located, for special education and related services pursuant to the provisions of this article.

SELPA Requirements

Each SELPA shall be responsible for providing appropriate education to students with a disability residing in LCI and foster family homes located in the geographical area covered by the local plan.

Each SELPA shall develop written agreements to be entered into by entities participating in the local plan. The agreements shall include, but not be limited to, the following:

1. A description of the process for coordinating and providing services to students with a disability placed in LCIs and foster family homes.

Legal References

EC 48850; EC 48852; EC 48853; EC 48853.5; EC 48854; EC 56155; EC 56155.5; EC 56155.7; EC 56156; EC 56156.4 EC 56157; , EC 56159; EC 56162; EC 56195.7

Local Procedures

The basic responsibilities of districts relative to students residing in LCIs and foster family homes are fairly simple. Each district is responsible for the identification, evaluation, IEP development and provision of special education and related services to students with a disability residing in LCIs and foster family homes within the geographical area of the district. Districts may either provide the required services directly, through agreement with another district within the SELPA, through another public agency, or through contract with an appropriate NPS/NPA.

The most important decision with regard to foster children is placement. This can often be a complex decision that requires careful consideration and observance of a variety of general education and special education laws.

The guiding principle is that all educational and school placement decisions must be made to ensure that the student is placed in the least restrictive educational programs and has access to academic resources, services and extracurricular and enrichment activities that are available to all students. In all instances, educational, and school placement decisions shall be based on the best interests of the student.

In general, a student placed in a LCI or foster family home shall attend programs operated by the district, unless one of the following applies:

1. The student is entitled to remain in his or her school of origin.
2. The student has an IEP requiring placement in a nonpublic, nonsectarian school or NPA, or in another district.
3. The parent, guardian, or other person holding the right to make educational decisions for the student, determines that it is in the best interests of the student to be placed in another educational program.

Role of the Educational Liaison for Foster Children

Every district is supposed to designate someone to act as the educational liaison for foster children. According to the Education Code, this person is responsible for facilitating the placement of all children living in LCIs or foster family homes, including students with a disability. It is the responsibility of the district to delineate the role of the liaison. The following are examples of typical liaison activities:

1. Review the case to determine the feasibility and appropriateness for the student to continue attending the school of origin.

2. Inform the person responsible for educational decisions of the right of the student to continue his/her education at the school of origin for the remainder of the school year.
3. If the liaison determines that it is in the best interest of the student to attend a program other than the school of origin (including a NPS as per an IEP) he/she will submit a written recommendation to the student and the person responsible for making educational decisions stating the basis for the recommendation and how this recommendation serves the foster child's best interest.
4. The liaison will, in consultation with the student and the person responsible for making educational decisions, decide whether the student will continue attending the school of origin or move to another program.
5. If the student will continue attending the school of origin, the liaison will make arrangements for the student to continue that placement for the remainder of the school year. In the case of a student with a disability, the school year includes the extended school year program if indicated in the IEP.
6. If the student is to enroll in a district program, the liaison will make arrangements for the immediate enrollment of the student.
7. In the case of a dispute, the student will be allowed to continue in the school of origin until the dispute is resolved.

Role of Special Education Staff

In the case of a student with a disability, the educational liaison for foster children may not have the expertise necessary for determining whether it would be better for the student to remain in the school of origin or enroll in a district or SELPA-operated program. In these cases, the designated special education administrator should collaborate with the liaison regarding the appropriate recommendation.

Placement in a Community Day School

Before any decision is made to place a student in a community school as described in §§ 1981 and 48660, or other alternative educational setting, the parent or guardian, or person holding the right to make educational decisions for the student pursuant to § 361 or 726 of the Welfare and Institutions Code or § 56055 of the EC, shall first consider placement in the general public school.

Service to Students in Emergency Shelters

For foster children living in emergency shelters, as referenced in the federal McKinney-Vento Homeless Assistance Act, districts shall provide educational services at the emergency shelter as necessary for short periods of time for either of the following reasons:

1. For health and safety emergencies.
2. To provide temporary, special, and supplementary services to meet the student's unique needs if a decision regarding whether it is in the student's best interests to attend the school of origin cannot be made promptly, if it is not practical to transport the student to the school of origin, or if the student would otherwise not receive educational services.

The educational services may be provided at the shelter pending a determination by the person holding the right to make decisions regarding the educational placement of the student. Services cannot be provided at an emergency shelter without the consent of the educational rights holder.

Authority to Make Educational Decisions

It can be difficult to ascertain who holds educational rights for students with disabilities living in LCIS and foster family homes. Every agency that places a student in a LCI is supposed to notify the district at

the time a student is placed in a LCI. As part of that notification, the placing agency is supposed to provide any available information on immediate past educational placements to facilitate prompt transfer of records and appropriate educational placement.

Also at the time of placement, each court, regional center for the developmentally disabled or public agency that places a student in an LCI or FFH is supposed to identify all of the following:

1. Whether the courts have specifically limited the rights of the parent or guardian to make educational decisions for a student who is a ward or dependent of the court.
2. The location of the parents, in the event that the parents retain the right to make educational decisions.
3. Whether the location of the parents is unknown.

Unfortunately, placing agencies sometimes do not provide this information. If a district is unable to obtain this information from the appropriate agency representative in a timely manner, the district should contact the SELPA for assistance.

Residential Status

Students with a disability placed in a LCI or foster family home by a court, regional center for the developmentally disabled, or public agency, other than an educational agency, shall be considered residents of the district in which the LCI or foster family home is located, for special education purposes.

Residential and Non-Educational Costs

If a district, SELPA or county office does not make the placement decision of a student with a disability in a LCI or in a foster family home, the court, regional center for the developmentally disabled, or public agency, excluding a district, placing the student in the institution, is responsible for the residential costs and the cost of non-education services of the student.

Disputes

Students have a right to continue attending their school of origin for the remainder of the school year if it is geographically feasible to do so. In the case of a student with a disability, the remainder of the school year includes the extended school year. If there is a dispute, however, with regard to the placement of a student with a disability, the student has the right to continue in the school of origin while the dispute is being resolved.

FAQs

Who is responsible for transportation if a student continues in their school of origin?

If the student is a foster youth, the district is not required to provide transportation to a school of origin unless such transportation is a related service in the student's IEP (EC 48853.5). If the student is a homeless youth, and if the student's temporary residence and the school of origin are in the same district, that district must provide or arrange the student's transportation to and from the school of origin. If the student is a homeless youth, and if the student is living outside of the school of origin's district, the district where the student is staying and the school of origin's district must determine how to divide the responsibility and cost of providing transportation, or they must share the responsibility and cost equally (42 U.S.C. § 11432(g)(1)(J)(iii)(II)).

If the school of origin is a NPS who has to pay for it?

Responsibilities for payment of costs for LCIs and foster family homes are complex and partly outlined SELPA in this manual in the sections on NPS/NPA and LCI/foster family home policies. Please consult the SELPA when a specific situation arises.

What if we don't have an educational liaison for foster children?

You are required to have a foster youth educational liaison. Someone has to assume this responsibility. Check with your COE to see if the COE has a foster youth liaison to assist your district.

REMINDERS

- In general, foster children and homeless children have the same rights with regard to "school of origin" and special education placement.
- For students placed in LCIs and foster family homes by a court or regional center, the DOR is the district where the LCI or foster family home is located.
- For students placed in LCI's or foster family homes through the IEP process, the DOR is the district that made the placement.
- Upon initial placement or mid-year transfer, foster and homeless children have a right to attend their school of origin for the remainder of the school year.
- Districts must first consider placements within the district before placing a foster or homeless child in a nonpublic school.
- Remaining in the school of origin for the remainder of the school year includes the extended school year.