

AB 490 IMPLEMENTATION: ENSURING SUCCESSFUL EDUCATION OUTCOMES FOR CALIFORNIA'S FOSTER YOUTH

Submitted by the California Foster Youth Education Task Force

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In 2003 California passed Assembly Bill 490 (AB 490), landmark legislation to address the barriers to equal educational opportunities for California's foster children and youth. These laws apply to children who are declared dependents and wards¹ of the juvenile court and whose cases are supervised by child welfare or probation agencies². Though progress has been made with the passage of this bill, there have been significant implementation challenges.

The **California Foster Youth Education Task Force** (CFYETF), a coalition of over 20 organizations working to implement practice and policy change to benefit educational outcomes for foster youth in California offer the following recommendations that will begin to close the achievement gap for our foster youth.

The Policy Brief that follows will introduce specific suggestions for AB 490 implementation in four critical areas: 1) Immediate enrollment in schools; 2) Transportation; 3) Partial credits; and 4) Least restrictive educational placements.

The intent of these recommendations is to draw attention to the urgency of foster youth education outcomes, provide policy makers with tools they need to address policy issues, and support implementation through action planning, resource sharing and support between local education agencies, social services, probation, foster youth, caregivers and other stakeholders.

Working together in new ways, will help the young people raised in our foster care system overcome the numerous daily challenges and obstacles they face in attaining an education and their dreams of lifelong happiness and success.

Background on Assembly Bill (AB) 490

It is estimated that foster youth change placements about once every six months; moreover some research suggests that they lose an average of four to six months of educational attainment each time a residential move occurs with a change in school placement.³ These educational disruptions and other obstacles lead to foster youth frequently falling behind in school. Graduation rates for foster youth are around 50% compared with 70% of their peers⁴.

¹ Under Welfare & Institutions Code (WIC) § 300, children who have been abused abandoned or neglected are subject to the jurisdiction of the juvenile courts, which may declare them “**dependents**.” Under WIC §602, children who have violated a law while under 18 years of age are subject to jurisdiction of the court, which may declare them “**wards**.”

² Education Code (EC) § 48853.5 (a).

³ Higher Education Opportunities for Foster Youth, A Primer for Policymakers, Thomas R. Wolanin, The Institute for Higher Education Policy (December 2005), p. 29, available online at: <http://www.ihep.com/Pubs/PDF/fosteryouth.pdf> (last retrieved January 2, 2007)

⁴ Id. at Executive Summary, p. v.

In 2004 a set of laws created by AB 490 took effect to address barriers to an equal educational opportunity for California's foster children and youth. These laws apply to children who are declared dependents and wards⁵ of the juvenile court and whose cases are supervised by child welfare or probation agencies.⁶

The legislative intent of AB 490 was that "...educators, care providers, advocates, and the juvenile courts shall work together to maintain stable school placements and to ensure that each pupil 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 other pupils..."⁷

IMMEDIATE ENROLLMENT

Lengthy delays in enrollment create an unnecessary obstacle. AB 490 addresses this by entitling foster youth to immediate enrollment in school, even if they do not have the documentation that is normally required. However, in spite of the passage of AB 490, foster youth continue to face obstacles to immediate enrollment and may not experience the seamless process envisioned by the statute. According to the "Foster Youth Services (FYS) 2006 Report to the Governor and the Legislature"⁸:

- "Resistance to immediate enrollment" was reported by 25% of FYS Countywide Programs as a "challenge."
- "Untimely transfer of health and education records" was reported by 33% of FYS Countywide Programs as a "challenge."
- "[M]any FYS coordinators report meeting resistance to the immediate enrollment of foster youths on the part of initial school contact staff
- "Untimely notification of placement changes" was reported by 27% of FYS Countywide Programs as a "challenge."

Possible Courses of Action:

AB 490 could be included along with the 24 other programs that are monitored through the CDE's **Categorical Program Monitoring** (CPM) process. CPM, on-site reviews to verify compliance are conducted every year for one quarter of all local educational agencies by state consultants knowledgeable about these programs (<http://www.cde.ca.gov/ta/cr/cc/>).

AB 490 provisions could be included in the **CDE's administrative complaints process** for the filing, investigation and resolution of complaints regarding alleged violations of federal or state law or regulations governing school districts.

The Foster Youth Services' and CDE websites could be enhanced in order to offer more information concerning AB 490 implementation. Links to model AB 490 enrollment-related policies, forms, etc. could also be posted on the FYS website.

Policies should be created to specify the training or qualifications that all **AB 490 liaisons** must have in order to fulfill that role.

⁵ Under Welfare & Institutions Code (WIC) § 300, children who have been abused, abandoned or neglected are subject to jurisdiction of the juvenile court, which may declare them "dependents." Under WIC § 602, children who have violated a law while under 18 are subject to jurisdiction of the court, which may declare them "wards."

⁶ EC § 48853.5(a).

⁷ EC § 48850(a).

⁸ "Report to the Governor and the Legislature" Foster Youth Services Program (Education Code sections 42920-42925) Counseling, Student Support, and Service Learning Office, California Department of Education (February 15, 2006), <http://www.cde.ca.gov/ls/pf/fy/documents/fylegreport2005.pdf> .

The California School Boards Association's (CSBA) provides model policies on numerous Education Code requirements. (<http://www.csba.org/ps/index.cfm>.) It may be helpful for CSBA to make those policies widely available on their website. Additionally, CSBA could create accompanying materials to underscore their importance.

Educators, placing agencies, care providers, advocates, and professionals who work in the juvenile courts should receive training on the provisions of AB 490.

California Department of Social Services can issue an All-County Letter that addresses the need for social workers and probation officers who work with foster youth to fulfill their responsibilities under AB 490 and encourages county agencies to collaborate with their partners to fully implement the laws.

LEAST RESTRICTIVE EDUCATIONAL PLACEMENTS:

Students in foster care are entitled to the “*least restrictive* educational programs” that can meet their needs (20 USC §1412(a) (5) (A); EC §§ 48853(g); 56031) and have “*access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils*” (EDUCATION CODE § 48850(a))

Students cannot be tracked into alternative educational placements based solely on their foster care status or academic performance. Students enrolled in alternative schools generally *do not* have access to the same academic resources that are available in regular comprehensive schools. These students should be given meaningful access to appropriate educational programs and supplemental services that are funded to ensure that school districts address the needs of *all* academically “at risk” students in the comprehensive school setting.

Legally, no student can be *involuntarily* placed in an alternative program without following the procedural protections mandated by the Education Code; however, foster youth remain to be involuntarily placed in such programs including but not limited to: continuation high schools, community schools, community day schools and independent study.

Possible Courses of Action:

Gather Enrollment Data to adequately address this issue, it would be helpful for stakeholders to have more information on students in foster care who are enrolled in mainstream and alternative school programs. Legislation adopted in 2004 created the requirement that the California School Information Services system disaggregate data on students in foster care (EDUCATION CODE § 49085). It is imperative that this existing requirement be fulfilled, and that school districts also disaggregate enrollment data per school site and program for students in foster care so the state can adequately assess whether provisions of AB 490 are being followed.

Foster Care Students – Alternative Program Enrollment Survey: Until enrollment data is routinely disaggregated for foster youth, school districts can conduct their own surveys concerning the enrollment of students in foster care. They should gather at least the following information on enrollment in NPS, Juvenile Court schools, Continuation High Schools, Adult Schools, and other settings:

- The number of foster care students **not** currently enrolled in a regular school, with the type of alternative placement for each youth by school site and grade level;
- The race, ethnicity and type of out-of-home placement for these students;

For each student:

- How the student enrolled in the alternative school and whether the placement was handled properly;
- How long the student has been enrolled and if/when the student is scheduled to return to a comprehensive school site;
- Whether the student's needs can currently be met by a comprehensive school and if so, when a move is scheduled to occur;
- If one is offered, the specific barrier to enrollment in a regular school, e.g.:
lack of credits (which may be exacerbated by failure to accept partial credits); need to serve out expulsion term; placement in a group home; or need to make up credits or graduation requirements.

The results of these surveys should be analyzed to identify whether students have been improperly placed in alternative programs. If such placements have occurred, steps should be taken to immediately facilitate enrollment in a comprehensive school.

School districts could be required by legislation to adopt policies, procedures and protocols governing enrollment of foster youth outside of mainstream schools and/or could be directed to conduct the alternative program enrollment survey described above.

If AB 490 is included in the **CDE's Categorical Program Monitoring (CPM)** process, the proper enrollment of foster youth in least restrictive environments should be included as a compliance item for review.

The California Department of Social Services Community Care Licensing Division can enforce the mandate that licensed children's institutions not require an IEP or attendance at a non-public school as a condition of placement for foster youth through its complaints and unannounced visits procedures.

PARTIAL CREDITS:

The calculation and acceptance of partial credits is critical to ensure that foster youth are not academically penalized because they are often transferred between school districts. Under AB 490, school districts must accept partial credits for entering foster youth, and thus districts must be able to calculate partial credits for foster youth who are transferring. Eighty-one percent of FYS Countywide Programs reported challenges with partial credit calculation in the "Foster Youth Services Report"⁹ and no uniform, statewide method has been established for calculating partial credits.

Possible Courses of Action:

The **State Superintendent** and/or the **State Board** could establish methods on how to calculate partial credits.

Through the regulatory process, the State Board could direct school districts to comply with the law by adopting policies and procedures for the calculation and acceptance of partial credits. The State Board can also be directed by the Legislature to promulgate regulations to effectuate a specific Education Code provision to that effect (e.g. EDUCATION CODE § 221.1, regulations concerning discrimination; EDUCATION CODE § 60005, regulations concerning curriculum framework).

If AB 490 is included in the CDE's Categorical Program Monitoring (CPM) process, the acceptance and calculation of partial credits should be included as one of the monitoring items to be reviewed.

⁹ "Report to the Governor and the Legislature" Foster Youth Services Program (Education Code sections 42920-42925) Counseling, Student Support, and Service Learning Office, California Department of Education (February 15, 2006), <http://www.cde.ca.gov/ls/pf/fy/documents/fylegreport2005.pdf>

In the absence of the aforementioned strategies, **local school boards** could establish their own board policy outlining methods and procedures pertaining to calculating partial credits

CSBA could strengthen their recommendations for Board Policies that guide school districts on how to calculate, transfer and accept partial credits for students in foster care and made widely available on their website.

SCHOOL TRANSPORTATION:

The “Foster Youth Services Report¹⁰” confirms that transportation, or the lack thereof, is a major obstacle to ensuring appropriate educational placement for foster youth. As it states, “[AB 490] did not specify who is responsible for transporting the foster youth to and from the school of origin, how transportation disputes to remain in the school of origin are to be resolved, or provide any funding for transportation . . . The unintended consequence is that school placement decisions are sometimes based on transportation time and cost factors rather than on the best interest of the student.”

AB 490 already provides foster youth with the right to remain in their school of origin for the remainder of the school year when a child welfare or probation agency moves them to a new placement (EDUCATION CODE § 48853.5(d) (1)). Students in foster care also have the right to remain in their school of origin if any dispute arises as to their school placement, pending the resolution of the dispute (EDUCATION CODE § 48853(c)). AB 490 also mandates that access to extracurricular and enrichment activities that are available to all students are also available to all foster youth. (EDUCATION CODE §§ 48850(a) & 48853(g)).

School Transportation for Foster Youth: Education’s Responsibility:

School districts have the discretion to provide home to school transportation for their students and they are allocated monies from the state for doing so. (See, EDUCATION CODE § 41850 *et seq.*). While districts are allowed to charge the parents or guardians of transported students a fee for such transportation, they must exempt indigent pupils from such a charge. EDUCATION CODE § 39807.5(d).

Although no bottom-line responsibility is delineated under AB 490 for the cost of transporting a youth to his or her school of origin, such provisions did exist when the bill was initially introduced. These provisions were amended out of the bill by the Senate Education Committee on the basis that they would likely “result in significant mandated costs to school districts.”

Child Welfare’s Responsibility:

The juvenile court places a child in foster care under the care and supervision of the child welfare agency and that agency is ultimately responsible for ensuring that the child receives the care to which she or he is entitled (e.g. WELFARE & INSTITUTIONS CODE §§ 16501-16501.1; CDSS Manual of Policies & Procedures (MPP) 31-405 *et seq.*, 31-320.1), thus responsible for placement of the child and ensuring that the child is transported to school. Transportation is a component of the foster care maintenance payment and is a federally reimbursable cost under Title IV-E, but the foster family home rate is not intended to cover the extraordinary expenses of long commutes to school.

¹⁰ “Report to the Governor and the Legislature” Foster Youth Services Program (Education Code sections 42920-42925) Counseling, Student Support, and Service Learning Office, California Department of Education (February 15, 2006), <http://www.cde.ca.gov/ls/pf/fy/documents/fylegreport2005.pdf>

Possible Courses of Action:

Child welfare agencies have low and no cost options to ensure that foster children are transported to their schools of origin. First and foremost the child welfare agency has an obligation to take into consideration the child's school placement and educational needs whenever making a placement decision (WELFARE & INSTITUTIONS CODE §§ 16010(a) & 16501.1(c); MPP 31-206.351). If a child cannot be placed near his or her school of origin, the agency can consider whether the caregiver should transport the child to school. (MPP 31-420; 22 Cal. Code Reg. §§ 84078(d) & 84079(a) (4)). If not, the agency may consider:

- whether there is a specialized care rate that may be paid to the caregiver to cover extraordinary transportation costs,
- whether county transportation workers or services are available to transport the child to school,
- whether mandated or discretionary educational funding is available for transportation (e.g. for foster youth who are awaiting placement and who benefit from federal McKinney -Vento laws or whose special education plans specify a need for transportation).

Collaboration: In the absence of statewide changes to the laws, local placing agencies (child welfare and probation), educational agencies and caregivers can and should work together to take advantage of funding available to each of them, and to forge agreements about how they can share the responsibility for foster youth's transportation needs. For instance, stakeholders could:

- Make agreements about which agencies will cover the cost of transportation for foster youth (e.g. this could include an agreement for reciprocity between neighboring school districts);
- Establish a process for promptly holding team meetings, which could include agencies, caregivers and other participants, when transportation questions need to be resolved (and perhaps agree about who will pay for transportation for the brief period until the meeting can be held); and/or
- Partner to create a "volunteer transportation team" made up of retired community members to provide transportation to and from school of origin across district lines. These volunteers could be supervised by one of the stakeholders in partnership with the child welfare agency.