

1. INTRODUCTION

This training manual was inspired by an article in the October 2000 issue of *Update*, a periodical published by the Judicial Council of California, Center for Families, Children and the Courts. That article, *The Educational Crisis of Children in the Juvenile Court System*, detailed the educational challenges faced by children in foster care. These challenges include:

This publication can be used to encourage a positive, child-centered approach to problem solving. It is our hope and intention that special education advocacy will be performed in a manner that provides dignity for each child and respect for all participants in the process. The shared vision is that every child will receive all the resources that they are entitled to in a nurturing environment created and supported by the team of individuals who assemble for that child.

“Studies have estimated that between 28 and 46 percent of delinquent children and approximately 20 to 25 percent of dependent children have at least one identifiable disability for special education purposes. Other studies place the rate for delinquent children as high as 60 percent. No matter which figure is the more precise, children involved in the juvenile court process are at least twice as likely as the general population to be in need of special education.”

F.A.P.E.

Free and Appropriate Education

“...foster children in California attend an average of 9 to 10 different schools by the age of 18.”

“...as many as 75 percent of foster youth perform below grade level; 50 percent have been retained at least one year in school; and more than 50 percent do not graduate from high school.”

The research for this manual showed us that the need for special education and specialized advocacy extended beyond children in dependency or wards of the juvenile court. All children need to find personal success in school. This manual is designed to help them.

A Guide to Educational Advocacy is for parents, advocates, children and others who may have questions or concerns about a child’s education or developmental well-being. It contains information about identifying children with potential needs, and accessing services to meet those needs. It also addresses children’s rights, school district and service agency responsibilities and community resources available for children with educational challenges.

Though some of the information specifically addresses children in dependency (foster care), the laws and recommendations can be applied in most situations affecting any child from birth to age 22.

Using this Publication

Any advocate for a child can use much of the information contained within this publication, whether that child is a dependent or ward of the court or not involved in the court at all. However, some rights and responsibilities are reserved strictly for the child’s parent for educational purposes. These individuals may be the child’s:

- Biological parent (if educational rights have not been terminated)

- Legal guardian
- Educational Surrogate or Surrogate Parent (defined in later section)
- Foster parent in certain situations (see note that follows)

If a right or obligation applies specifically to the legal parent, parent is indicated in bold text. The term advocate is used in all other situations.

Foster parents may act as the child’s surrogate parent for educational purposes if:

- The natural parents’ authority to make educational decisions on the child’s behalf has been terminated
- The foster parent-
 - Has an ongoing, long-term parental relationship with the child
 - Is willing to make the educational decisions required of parents
 - Has no conflict of interest
 (Authority: 20 U.S.C. 1401(19))

The information is presented in sections. If the reader is new to the educational process, or is working with a new child, most sections may provide useful information. For readers farther along in the educational process, referring to specific sections may be more appropriate.

Because this publication is intended to provide an overview of the educational process, and because laws change frequently, many additional resources are listed at the end of certain sections and in the appendix. Readers are encouraged to seek additional information or assistance when appropriate.

Definitions:

Dependent:

- A dependent child of the court is any child who comes within Welfare and Institutions Code Section 300 (a) through (j)
- Child who falls under the jurisdiction of the juvenile court due to neglect, abuse or abandonment by one or more parents or primary caregivers

Ward:

- A ward of the court is any child who comes within Welfare and Institutions Code Sections 601 or 602
- Child who falls under the jurisdiction of the juvenile court due to being habitually disobedient or truant, or a minor who has violated a law defined as a crime.
- Court jurisdiction means that court representatives take over the responsibility of deciding what is best for the child.

Charter Schools are public schools and subject to the same laws as all public schools.

Legal References

This publication is not designed to replace the advice of an attorney. It is based on Special Education Laws in effect at the time of publication (September 2002). Federal and State laws can change at any time. You may want to consult the following legal references:

Federal Laws & Regulations:

Individuals with Disabilities Education Act (IDEA), 20 United States Code section 1400 et seq.; federal regulations including IDEA, 34 Code of Federal Regulations section 300.1 et seq.

State Laws:

California Education Code sections 56000 et seq. (on special education) and sections 48900 et seq. (on school discipline); California Government Code section 7579.5 (on surrogate parents)

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