

Bridges



Association of Administrators of the Interstate Compact on Adoption and Medical Assistance

Fall/Winter 2005

An Educational Advocacy Partnership: The Illinois Department of Children and Family Services and Northern Illinois University

by: Sharon Freagon, PhD, Lee Shumow, PhD,
and Angela Baron-Jeffrey, MA; Northern Illinois
University, Center for Child Welfare and Education
with: Sharon McCartney, JD, AAICAMA, APHSA

A child's life course trajectory is largely dependent on school success. School has the single greatest impact of any social institution, next to the family, on the development of children. But attending school is not equivalent to obtaining an education, especially for children in foster care. The educational well-being of many children in foster care in the United States is compromised. That knowledge was part of the impetus behind the American Civil Liberties Union (ACLU) class action lawsuit, *B.H. v. Johnson*, in 1988, filed on behalf of children and youth in the care and custody of the Illinois Department of Children and Family Services (DCFS, the Department). The suit sought broad foster care reforms and included educational concerns. In 1990, the ACLU and the Department reached a settlement. Under the consent decree, DCFS agreed to a reform plan for Illinois foster care that included an Educational Task Force (ETF, Task Force). ETF's mission was to determine the unmet educational needs of children in state foster care and to make recommendations to the state to meet those needs in order to improve educational outcomes.

Defining the Educational Needs of Children in Foster Care

The Task Force faced an enormous challenge. How could they determine the education needs of children in DCFS care when little data on their particular educational status was available? The ETF's first task was to determine where foster children were encountering educational problems. To do this, the ETF convened panels whose expertise came from all areas of the foster care community. Caseworkers, foster parents, and youth in the system were brought together and, as they worked, the problems and issues faced by children in foster care became clearer. The ETF assembled the data generated by the panels and produced a report containing sixty recommendations for addressing the needs of children in DCFS foster care.

IN THIS ISSUE

<i>Legislative and Federal Update</i>	6
<i>State Information Exchange</i>	8
<i>Resource Notes</i>	10
<i>Cases of Interest</i>	12
<i>Parent Perspectives</i>	14
<i>Medicaid Exchange</i>	15



The next step was to make the recommendations a reality. However, there was no central structure or single institution dedicated to improving educational outcomes of children in the foster care system. Recognizing the clear need for a centralized, education-focused entity, Illinois created the Educational Access Project (EAP, the Project) in 1997. The Project was given responsibility for implementing the recommended educational reforms of the Task Force and Northern Illinois University (NIU) was chosen to house the Project. NIU was chosen for its strong reputation in teacher and educational administrator preparation, and its dedication to educational research aimed at improving the lives of the citizens of Illinois.

The single most significant recommendation implemented by the EAP was the creation of education advisors. These advisors were needed to help create an education-competent foster care community. Educational advisers use their educational expertise to provide educational technical assistance to foster parents, schools, and caseworkers throughout the state. Through training and support services, advisers help other professionals meet the educational challenges specific to children in foster care.

Making It Happen: Test Piloting the EAP

The EAP developed an implementation plan which was tested with children in DCFS care in Chicago. The plan was staffed with three education advisors and a program coordinator. Each month the EAP tracked and reported each child's educational progress to DCFS. Staff was consulted on issues of academic progress, attendance, grade promotion, school placement, required immunizations, and special education eligibility. In the course of the test pilot year, DCFS personnel and private placement agency staff were trained to identify and advocate for the educational needs of children in their care. The result: the educational problems of hundreds of children were lessened or resolved and the educational outlook for many children improved. The data accumulated during the test year not only assisted specific children, it was used collectively to identify trends and longitudinally track systemic issues.

The Center for Child Welfare and Education

The success of the Chicago pilot encouraged DCFS to expand the Educational Access Project to all the counties in Illinois. It also created a desire to institutionalize the Project into a permanent organization. This organization could offer reliable professional assistance and continued education to address the evolving educational needs of children in foster care and pre-adoptive placements. In response, the Center for Child Welfare and Education (the Center) was created in 2000. The Center is a partnership between NIU and the Illinois Department of Child and Family Services. NIU created an academic unit within the University's College of Education to focus on the systemic issues related to addressing the educational needs of children in foster care such as status research, training, intervention, and policy and system analysis. The Center is dedicated exclusively to promoting improved educational outcomes for children in foster and pre-adoptive care and is the only university center in the nation with this specific purpose.

The Center is divided into two major operational units, the Research and Policy Development Unit and the Educational Access Program. The two units work together to improve the educational success of children in foster care and those who have been adopted from foster care. The Center is responsible for researching the educational needs of children who have been abused and/or neglected, developing policy to integrate effective approaches to educational well-being into child welfare practices, and increasing the capacity of the educational systems in providing appropriate services. The Center shares research findings and effective educational approaches with DCFS. It reviews and develops policy and effective caseworker practice procedures that are compliant with Illinois and Federal education law.

All the work of the Center for Child Welfare and Education is funded by a contract between Illinois DCFS and NIU. The University returns a portion of the administrative costs paid under the contract to the Center. The Center then uses these funds to conduct research and expand its educational knowledge-base. The College of Education at NIU supports the Center by providing graduate assistants and technical support.

Some educational problems result from the trauma of abuse and neglect.
(dosReis, Zito, Safer, & Soeken, 2001; Zima, Bussing, Yand, and Belin, 2000)

However, some educational problems result from absences due to delays in school registration and appear to be related to case management.
(Advocates for Children, 2000; Conger & Finkelstein, 2003)

The Role of the Research and Policy Development Unit

The focus of the Research and Policy Development Unit (RPD) is on policy and procedure. The RPD is overseen by an advisory board of scholars, practitioners, service providers, service receivers, and policy experts in both foster care and education. It meets annually and reviews policy on an on-going and as-needed basis. When federal or state education law changes, this Unit analyzes the effects on children in care and informs DCFS of those effects. It then participates in rewriting DCFS procedures to ensure that the changes in the rules and regulations are consistent with the law.

The RPD Unit also conducts comprehensive educational record reviews to monitor the provision of education to and the educational status of children in foster care in Illinois. A random sample of children in foster care is drawn and data is collected from their educational records on a number of indicators of educational well-being. Some indicators reviewed are: standardized test scores, report card grades, eligibility for and special education services received, attendance, suspensions, and school transitions. The data is used to determine which children are struggling academically or behaviorally and to predict whether they are at risk for dropping out of school.

The Center also identifies educational best practices through literature reviews and primary research. Recently, the RPD Unit has been investigating the transition from eighth grade to high school. Interviews have been conducted with eighth graders in foster care to assess the availability and adequacy of transition supports. This transition period is a critical time for all children and should be carefully monitored, particularly for children in foster care. Educators understand that smoother transitions from junior high to high school increase the likelihood of academic success.

The Role of the Educational Access Project

The EAP's function is to improve practice. The EAP prepares and provides training for social welfare personnel, caregivers, and school personnel to secure effective educational services for children and youth in

A disproportionate number of children in foster care are placed in special education.

Goerge, Van Voorhis, Grant, & Casey, 1992

out-of-home care. It provides educational technical assistance to field workers, foster and adoptive parents, court representatives and schools. Center staff work collaboratively with field staff to develop solutions to educational issues that impede educational progress. All requests or concerns voiced by foster parents or caseworkers to school personnel are investigated with calls or visits from EAP staff to the school. The University Center offers a neutral third-party assessment that acts as a bridge between a parent or caseworker and school personnel.

A disproportionate number of children in foster care perform below grade level academically.

*Burley & Halpern, 2001,
Eckenrode, Laird, & Doris, 1993*

The EAP and the Illinois Department of Child and Family Services

The Illinois DCFS partners with the EAP to advocate for the educational needs of children in DCFS care. The partnership actively seeks to locate and implement the tools necessary to improve the educational outcomes of children in or adopted from foster care. The EAP collaborates with schools and school districts by training school and child welfare personnel and caregivers to increase foster care competency in education. The EAP works to ensure that appropriate, comprehensive Individual Education Programs (IEPs) are in effect for all children the EAP oversees and provides individual interventions between families and schools to help secure necessary educational and related support services. EAP staff monitors and tracks approximately 2,000 education problems annually for children identified in DCFS Administrative Case Reviews. They assess school suspensions and expulsions identified in DCFS Unusual Incident Reports and assist in education planning for DCFS youth transitioning from the Department of Corrections. They also provide support to Youth and Foster Parent Advisory Boards.

EAP Field Staff plan, coordinate, and monitor the work of Education Advisors and Assistant Advisors located throughout the state. Advisors have extensive knowledge and skills in: communication, advocacy, collaboration, adult training, educational best practices, state and federal laws pertaining to education and child welfare, creativity in problem solving, mediation and conflict resolution, child welfare practices, and organization. More than 5,000 requests for individual interventions on educational issues are addressed by

advisors annually. The advisors have a unique view of these problems due to their extensive work in the field and use this viewpoint to develop strategies for systemic intervention and prevention.

The EAP goes beyond providing DCFS with training, it also provides on-going training to individuals and organizations on educational issues. Since the Center was founded, training has been conducted for trainers of foster parents, DCFS and private agency staff, early intervention providers, community groups, court personnel, and local school districts. The EAP also provides training on educational issues for foster parents and those who adopt children in the care of the state.

An example of the effectiveness of the EAP was the training of approximately 18,000 foster parents when a change in federal law gave foster parents the right to make educational decisions on behalf of their foster children. Illinois decided that foster parents would receive six hours of pre-service educational advocacy training developed by the EAP. DCFS subsequently changed

A disproportionate number of children in foster care are suspended and expelled from school.

Goddard, 2000

procedures to require foster parents to take this educational training to renew their licenses. Currently, the training division of DCFS has negotiated for the education advisors to provide that training three times per year. The training covers all levels of education including services, testing, special education law and parental rights, school discipline, how to advocate for youth at school meetings, information on resources available to support the children's education and how to access those resources.

Conclusion

The Illinois experience demonstrates that collaboration between education experts, child welfare experts, and foster and adoptive families can produce significant advances for the education of children in care - and can produce them in a relatively short period of time.

A disproportionate number of children in foster care, if they do complete high school, do not receive vocational or higher education and are consequently underemployed or unemployed.

Advocates for Children, 2000

National Adoption Day is November 15, 2005

Each year on the Saturday before Thanksgiving, adoption professionals and community members across the county come together to celebrate as thousands of children are adopted. National Adoption Day is sponsored nationally by The Alliance for Children's Rights, Casey Family Services, Children's Action Network, Congressional Coalition on Adoption Institute, Dave Thomas Foundation for Adoption, Freddie Mac Foundation, and Target. For more information, visit www.nationaladoptionday.org.

For general information about National Adoption Day:

Please call 202-572-2993

Or e-mail info@nationaladoptionday.org

For information on holding a future National Adoption Day event in your city:

Please contact Cynthia Billey at 213-368-6010 x107.

For media inquiries:

Please contact Julie Moriarty at 202-572-2867 or julie.moriarty@gmmb.com

For more information and future event-planning materials, link to the following page:

<http://www.nationaladoptionday.org/2005/index.asp> or the PDF document: <http://www.nationaladoptionday.org/2005/documents/Event%20Planners%20Page/Event%20Materials/Flier.pdf>

Lessons for Other States

What has changed:

- ◆ The number of children and youth with educational and advocacy programs that meet their needs has increased dramatically.
- ◆ Illinois schools have an invaluable resource for assistance.
- ◆ Through training foster parents, caseworkers, and school personnel have received critical information that enables them to work more effectively to meet the educational needs of children.
- ◆ Children in foster care in Illinois have a better chance to succeed academically and personally.
- ◆ The culture within DCFS has changed. Education is now a priority in conjunction with safety and permanency.
- ◆ Schools have recognized and responded positively to the cultural change within DCFS by creating greater collaboration and informational exchanges.

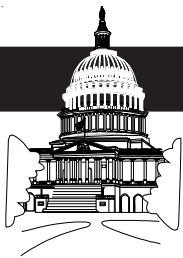
What was learned:

- ◆ It is essential for state child welfare systems to create, maintain, and regularly review policies to enhance the educational success of children in foster care.
- ◆ Centralization and partnering with a respected teacher training institution is vital in developing and implementing a systemic plan to address educational issues.
- ◆ The education advisors system is a good one. The expertise and knowledge of an education advisor is different from the expertise of a caseworker. The combined expertise of these two professionals, in collaboration with foster parents, provides a comprehensive approach to identifying and obtaining needed educational services.
- ◆ Disruption in foster placements can often be prevented when difficult educational situations are quickly resolved.
- ◆ Responses to educational needs must be immediate. The educational problems experienced by many children in foster care must be addressed as they arise to prevent other life complications.

What you can do:

- ◆ Assess the Illinois experience. Are there parts of this model that would work in your state?
- ◆ Talk to your foster families and children. Ask families if any of the problems identified by the Task Force are presenting themselves.
- ◆ Is there a university in your state that might be interested in partnering with your department to help foster children overcome some of the educational problems they may be facing?
- ◆ Look at the research done at the Center. Are there any effective practices you can easily incorporate into your work? Are there some you could discuss with your supervisor that could be implemented over time and throughout your agency?
- ◆ Encourage your state to review your state's data and to convene meetings of decision makers, advocates, and stakeholders to review the data and the possibilities.
- ◆ Use consultants who have experience and knowledge on these issues to inform those possibilities.
- ◆ Create interest in a responsive state agency and then help establish a budget and technical assistance for creating a plan that works for your state.





Senate Bill Addresses Child Abuse and Neglect Courts, and Interstate Placements

(9.12.05) Senators Mike DeWine (R-Ohio) and John D. Rockefeller (D-W.Va.) introduced the Working to Enhance Courts for At-Risk and Endangered Kids Act of 2005, S.1679. The bill would require child welfare agencies to demonstrate to HHS that they are engaged in substantial and ongoing collaboration with the state abuse and neglect courts and Tribes; the establishing state multidisciplinary, broad based child welfare commissions; training of court personnel; developing outcome performance standards for courts and practice standards for attorneys representing child welfare agencies; and the creation of loan forgiveness programs for attorneys and social workers.

Title VI of the bill, *Safe and Timely Interstate Placement of Foster Children*, provides incentives, penalties, guidance, and requirements related to the orderly and timely placement of children in foster care moving from one state to another, including:

- ♦ ICPC – A sense of the Congress that states should expeditiously revise the ICPC and limit its applicability to children in foster care under the responsibility of a state, except for those children seeking placement in a licensed residential facility primarily to access clinical mental health services, and include a 60-day time line for the completion and approval of a home study.
- ♦ Incentive Payments – An incentive payment program that provides \$1,500 per home study that is completed within 30 days of the home study request. To be eligible for the incentive payments, states must have an approved plan that is in compliance with the data requirements, and the Secretary must verify the data against complementary data. Incentive payments must be used for purposes allowed under Titles IV-E and IV-B (including post adoption services). Incentive payments will remain available until the next fiscal year. The appropriation is \$10 million per fiscal year for the years FY2006-2009. If there are insufficient funds appropriated to cover the incentive payments, then an adjustment of the payment will be calculated by dividing the total amount available by the number of eligible timely interstate home studies.
- ♦ Data Requirements – States would be required to submit a report for each fiscal year to HHS

which includes: (1) the total number of interstate home studies of foster children requested by the state and identification of the state receiving each of the requests, and (2) the total number of timely interstate home studies completed by the state for children in foster care under the responsibility of another state and the identity of the other state involved;

- ♦ State Plan Requirements – Amends Title IV-E by adding new requirements for state plans for foster care and adoption: (1) requires states to conduct and complete a home study within 60-days of receipt of a request. If a state fails to comply with the 60-day time limit for reasons beyond their control (for instance if the FBI doesn't provide a background check in time or another entity doesn't provide completed medical forms 45 days before the end of the 60-day period) the state will have an additional 15 days, for a total of 75 days, to complete the home study. (2) requires states to treat a home study report received from another state, Tribe, or private agency under contract with a state as meeting the requirements of the state requesting the home study, unless, within 14 days of receipt of the home study, the sending state determines, based on specific content in the report, that making a decision in reliance on the report would be contrary to the welfare of the child, (3) requires consideration of both in-state and out-of-state permanent placement options at the 30- day and 12-month permanency hearings and while concurrently making reasonable efforts to reunify the family and find adoptive homes or legal guardianships, (4) requires that states not impose any restriction on usage of private agencies to conduct home studies, and (5) requires effective use of cross jurisdictional resources, use purchase of services, and elimination of legal barriers to timely adoptive and permanent placements.
- ♦ Courts – Amends Title IV-B, Subpart 2 to require assessments be conducted by the court with Court Improvement Dollars including determining best strategies to expedite interstate placements by: (1) requiring courts in all states to cooperate in information sharing (2) authorizing courts to obtain information and testimony from agencies and parties in other states without requiring interstate travel, and (3) permitting parents, children, attorneys and other necessary parties to participate in interstate placement cases without requiring travel.

- ♦ Private Agencies/Full Faith & Credit – A sense of the Congress that states should use private agencies for home studies if necessary to meet the 60-day requirement, and give full faith and credit to any home study report conducted by another state.
- ♦ Criminal Background Checks – Eliminates the opt-out provision for criminal background checks but provides for an exemption for states that opted out on or before 9/30/05 and for states where there would be a conflict with a requirement of the state's constitution. Requires criminal background checks for the placement all children in foster care or those adopted from foster care regardless of Title IV-E eligibility. Requires states to check the registries in any other state in which the prospective foster or adoptive parent or other adult residing in the home has lived in the last 5 years.
- ♦ Caseworker Visits – Amends Title IV-E and IV-B definitions to require on-going visitation at least every 6 months (instead of every 12 months) in interstate cases.

The bill can be accessed at <http://thomas.loc.gov>

GAO Report Reviews Special Needs Adoptions

In its June 2005 report GAO-05-292, *Better Data and Evaluations Could Improve Processes and Programs for Adopting Children with Special Needs*, the Government Accountability Office (GAO) identified key challenges to placing and maintaining special needs children in adoptive homes. To obtain this information, GAO gathered and analyzed data from several sources. GAO surveyed adoption directors in 50 states, the District of Columbia, and Puerto Rico. Survey information received from the states was supplemented by site visits to 5 states, reviews of 10 states' Child and Family Services Plans, reviews of Federal adoption assistance and adoption incentive laws and regulations, and interviews with Department of Health and Human Services officials, adoptive parents, and adoption program managers across the country.

Key Findings

State officials identified limited resources, court processes, and delays in completing interstate placements as major challenges to successful adoptions of children with special needs. It was reported that these factors impede states' efforts to recruit families and delay the adoption process.

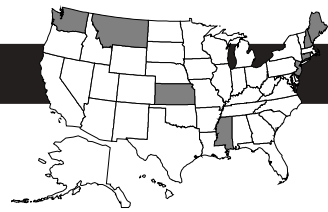
State respondents reported that, due to limited resources, adoptive parents often receive lower subsidies and fewer services than foster parents. Half of the 31 states whose adoption assistance payments were lower than foster care maintenance rates reported lower adoption assistance rates as a "moderate" to "very great" hindrance to the adoption of special needs children. The survey also questioned states on the availability and provision of 13 specific services/supports to both adoptive and foster families, such as case management services, medical supplies, daily childcare, respite services, substance abuse and residential treatment, clothing allowance, crises intervention, individual and family therapy, tutoring, and post secondary waivers. For 9 of these 13 services, a greater number of states reported providing these services to foster children than to adoptive children. Adoption experts interviewed by GAO indicated that prospective families may hesitate to adopt special needs children because they are concerned about the cost of providing services necessary to meet the child's needs.

The length of time it takes to place children with families also emerged as a barrier to finding families for children with special needs. According to the report delay is sometimes caused by the low priority receiving state workers put on a request from outside their state. Court delays, including difficulties in scheduling hearings to terminate parents rights and subsequent appeals made by parents or relatives, add additional time to the process.

Finally, delays in completion of the home study process were identified as hindering adoptions that involved interstate placements. Twenty-six of the 49 respondents cited the lengthy process to place children across state lines as a "moderate" to "very great" hindrance to the adoption of special needs children. Yet, there is no data available on the length of time involved in completing interstate home studies or determining best practices for the field.

While states have developed and implemented strategies and programs such as targeted recruitment, partnering with adoption exchanges, and matching events to promote in-state and interstate special needs adoptions, few evaluations have been conducted to assess their effectiveness. Only 9 out of 49 states surveyed indicated that they had evaluated the effectiveness of their post adoption services. Similarly, although adoption assistance programs offer support for special needs adoptions, data is also lacking to determine if changes to the adoption assistance and adoption incentive programs are needed to better facilitate

(continued on page 9)



STATE INFORMATION EXCHANGE

ICAMA Joinder Update

Tennessee is the most recent state to become a member of the Interstate Compact on Adoption and Medical Assistance. Tennessee became party to ICAMA in July 2005. This brings the number of member states to 48, including the District of Columbia.

The remaining three states, Wyoming, Vermont, and New York, remain committed to drafting and introducing legislation that would enable them to join the Compact. Both Wyoming and Vermont have drafted enabling legislation to join ICAMA and are preparing to introduce the bill in their 2006 legislative sessions. New York is committed to joinder and is developing a strategy to accomplish this.

Adoption Laws Enacted: Calendar Year 2004 *

Connecticut: Law permits families who adopt children from foster care to purchase group health insurance through a state plan.

Florida: Authorized courts to waive the consent of the state agency to an adoption of a foster child if the court determines that such consent is being unreasonably withheld.

Missouri: Amended its statute that provides a tax credit of up to \$10,000 for nonrecurring expenses associated with adoption of a special needs child. The cap on the cumulative amount of tax credits available during any fiscal year was raised from \$2 million to \$4 million. In the first 90 days of the fiscal year, half the cap is allocated to in-state adoptions and half the cap is allocated to out-of-state adoptions. If less than \$2 million in out-of-state credits have been claimed during the first 90 days, the remaining amount can be used for in-state adoptions. The legislature directed the state director of revenue to establish a procedure to equally apportion the cumulative amount of the tax credit among all claimants in a fiscal year.

Rhode Island: Established a commission to study the benefits and supports available to adoptive families.

South Carolina: Law allows the state Children's Trust Fund to award grants to promote the adoption of special needs children in the state's custody.

Education Laws Enacted: Calendar Year 2004 *

The following laws were passed to increase accountability and interagency coordination to meet the educational needs of children in the child welfare system.

California: Passed a measure to increase the accountability of nonpublic schools that serve children with exceptional needs.

Florida: Law requires interagency agreements among the state child welfare agency, the state education agency, and district school boards.

Missouri: Law requires the child welfare agency and the education agency to establish procedures to facilitate the transfer of school records when placement requires a change in schools. The state also required the agency to avoid the need for school changes resulting from placement.

**Excerpted from the State Child Welfare Legislation 2004 Report from the National Conference of State Legislators web site found at: <http://www.ncsl.org/programs/cyf/cwlaws2004.htm>*

CALIFORNIA (San Mateo County)

Foster Parents Bill of Rights

(9.21.05) In an effort to promote more people to become foster parents, California's San Mateo County Board of Supervisors approved a foster parent Bill of Rights designed to improve communication between foster parents and the county child welfare system. The new policy encourages foster parents to participate in the decision-making process regarding children in care and was collaboratively created by the county Human Services Agency and fosters parents. The policy guarantees the following to foster families:

- To be considered as the first choice for a permanent placement for a child who is free for adoption.
- To be treated with dignity and respect as a member of the professional team caring for foster children.
- To receive training and support for providing care and meeting the needs of children.
- To be informed about the children they are caring for, including court decisions.

(continued on page 9)



2005 Exemplary Leadership Award

Jane Morgan Uecke, AAICAMA's former federal project officer, was chosen to receive this award given by the Department of Health and Human Services, Administration of Children and Families.

Congratulations to Jane Morgan Uecke!

HAWAII

Emergency Appropriation

Passed into law: ACT 06 (05) SB778 SD1: Making an emergency appropriation for services to children with autism spectrum disorder, and for school-based behavioral health services. The law provides an emergency appropriation from FY 2005 general funds of \$11,672,564 to pay for services to autistic children. These funds cover an increase in the number of students diagnosed with autism spectrum disorder. They will also pay for increased costs of school services provided to certain children who are not able to participate in classroom-based activities.

ILLINOIS

Adoption Reform

(8.14.05) Illinois passed the Adoption Reform Act (Public Act 094-0586) which provides reforms intended to protect families involved in adoption and give the state better regulation of private adoption agencies. The Act immediately went into effect and provides the following: a "bill of rights" for adoptive and birth parents, requirement that all private adoption agencies become non-profit organizations within two years and be licensed by the state; for establishment of a statewide adoption complaint registry; that unlicensed companies be banned from advertising adoption services and establishment of penalties for deceptive advertising.

Law link: <http://www.ilga.gov/legislation/publicacts/94/PDF/094-0586.pdf>

(Legislative and Federal Update continued from page 7)

adoptions. In addition, the number, characteristics, and outcomes for children who do not meet Title IV-E eligibility requirements are unknown, so it is not possible to determine the extent to which this population is being underserved.

Recommendations

Given the identified challenges and the limited assessments to determine best practices in special needs adoption, GAO recommends that HHS improve its data collection and evaluation efforts. Specifically, GAO suggests that HHS assist states in collecting and reporting data related to interstate placements and facilitate the evaluation of federal and state strategies and programs that promote special needs adoption. GAO also proposes that HHS begin to gather data regarding children who do not qualify for Title IV-E adoption assistance and assess the impact of expanding eligibility to include this group.

Link to full report of GAO-05-292: <http://www.gao.gov/new.items/d05292.pdf>

Link to report highlights of GAO-05-292: <http://www.gao.gov/highlights/d05292high.pdf>

HHS Awards FY 2004 Adoption Incentive Payments

(9.20.05) HHS announced \$14.5 million in adoption incentive payments to 24 states, the District of Columbia, and Puerto Rico for FY 2004. The incentive payments were awarded to states that increased the number of total adoptions, special needs adoptions, and older child adoptions over their FY 2004 adoptions. The funding was provided based on the Adoption Promotion Act (P.L. 108-145), which was signed into law on December 2, 2003. The act reauthorized the adoption incentive program through FY 2008 and appropriated a total of \$43 million per year for the bonuses. The key changes or new provisions in the act included the addition of older child adoption bonuses, updated baselines, a three-tiered bonus system, and a new penalty provision related to Adoption and Foster Care Analysis and Reporting System submissions. In comparison, 31 states and Puerto Rico were awarded \$17.9 million for FY 2003.

VOICE FOR ADOPTION AWARDS FOR 2005

Post-Adoption Services Award
went to the State of Pennsylvania.

Interjurisdictional Award
went to the State of West Virginia.

Congratulations!





This edition of *Bridges* focuses on education. As a follow-up to the lead article, *An Educational Partnership: the Illinois Department of Children and Family Services & Northern Illinois University*, Resources brings you a comprehensive listing of educational resources found outside state departments of human services.

Guides and Issue Briefs

A Road Map for Learning: Improving Educational Outcomes in Foster Care is a guide for working towards successful educational outcomes for youth in foster care or out-of-home care. It provides a framework for collaboration across federal, state and local, legal, educational, and child welfare systems. The report defines 11 education objectives and includes best practices and resource information as well as handouts and checklists.

Link: <http://www.casey.org/Resources/Publications/RoadMapForLearning.htm>

A Guide to Special Education Advocacy for Resource Families is a 20-page guide, produced in 2001, that outlines benefits provided under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973. It offers practical tips for effective advocacy, reviews the functions of caretakers acting as parents for a child, summarizes the principal procedural protections in IDEA, and provides a review of processes for dispute resolution.

Link: <http://www.casey.org/Resources/Archive/Publications/SpecialEducationAdvocacy.htm>

Education Issue Brief - Improving Special Education for Children with Disabilities in Foster Care describes how children in foster care can suffer in many ways. Their success in school is no exception. As a result of experiences both prior to and during foster care, these children are at high risk for educational failure. From this report: A recent Washington state study found that a youth's foster care status alone is associated with a 7-8 percentile gap in standardized test scores. Overall, children in care score 16-20 points lower on standardized achievement tests than other children.

Link: http://www.fosterclub.org/training/upload/fosterclub_219.pdf

Promoting Educational Success for Young People in Foster Care by The National Foster Youth Advisory Council (NFYAC) presents a five-page plan for educational success for children in foster care, with 10 recommendations.

Link: <http://www.fyi3.com/fyi3/Involved/YB/pdfs/educationStatement.pdf>

Asking the Right Questions: A Judicial Checklist to Ensure that the Educational Needs of Children and Youth in Foster Care are Being Addressed was published by National Council of Juvenile and Family Court Judges (NCJFCJ) in April, 2005. It provides a field-tested checklist judges can use to make inquiries regarding the educational needs of children and youth under their jurisdiction with the goal of positively impacting their educational outcomes and preparing them for adulthood.

Link: <http://www.ncjfcj.org/content/view/full/340/322/>

Educating Children in Foster Care written by National Conference of State Legislatures: provides a brief overview with some background on the academic performance of children in foster care and a description of what researchers have identified as major systemic obstacles to their academic success.

Link: <http://www.ncsl.org/programs/cyf/CPIeducate.htm>

Studies

Improving Family Foster Care: Findings from the Northwest Foster Care Alumni Study provides newly released results from a study focused on the long-term effects of foster care on individuals who are now young adults, ages 20-33, in the areas of mental health, education, and employment. The study reviewed 659 cases of foster care alumni, 479 of whom they interviewed. The study found that within the past 12 months, the following were experienced by study participants:

- More than half reported clinical levels of at least one of the following mental health problems: major depression, Post Traumatic Stress Disorder (PTSD), social phobia, panic syndrome and drug dependence.
- The rate of PTSD among participants was twice as high as US war veterans.
- Foster care alumni were more likely to receive GED diplomas than to graduate from traditional high schools. Frequent placement changes, often resulting in school transfers, are among the reasons children in foster care struggle to finish high school. 65% of participants experienced 7 or more placement changes while in care.

Link: <http://www.casey.org/Resources/Publications/NorthwestAlumniStudy.htm>

Educational Experiences of Children in Out-of-Home Care by Chapin Hall Center for Children at the University of Chicago presents findings from a mixed-method study assessing the educational performance and experiences of youth in out-of-home care. The report says that while a portion of the academic problems of students in care stems from experiences prior to their entry into care, their academic challenges are compounded by the fact that they are clustered in lower-performing schools. Other factors: school mobility and poor communication among school staff, caseworkers and foster parents which further impedes their educational progress.

Link: http://www.chapinhall.org/article_abstract.aspx?ar=1372

Organization Websites

National Child Welfare Resource Center for Youth Development

The purpose of the University of Oklahoma's National Child Welfare Resource Center for Youth Development (NCWRCYD) is to effectively help youth in care establish permanent connections and achieve successful transitions to adulthood. The "Publications" section of this website has many interesting entries. See: *Improving Outcomes for Older Youth*, jointly published by the Center and the ABA Center on Children and the Law, which provides a comprehensive guide to federal legislation for youth in out-of-home care. It is available for download or for purchase in hard copy.

Link: <http://www.nrcys.ou.edu/nrcyd/>

National Child Welfare Resource Center on Legal and Judicial Issues

Through its Education Issues Webpage, the ABA provides complete and in-depth information on the educational needs of vulnerable children, including children in foster care and homeless children. Resources include studies addressing foster care and education issues, training documents and implementation materials, direct advocacy tools, memoranda of understanding, interagency agreements, and more.

Link: <http://www.abanet.org/child/rclji/education/home.html>

The Orphan Foundation of America (OFA)

This foundation has served thousands of foster teens across the United States. The OFA teaches youth how to balance a checkbook, write a resume, apply for a first job, and testifies before Congress and state legislatures championing the needs of foster teens.

Link: <http://www.orphan.org/>

Homeless Youth

Barton Child Law and Policy Clinic at Emory University Law School

Educational Stability for Youth in Foster Care analyzes the implications of the McKinney-Vento Homelessness Assistance Act on children in foster care.

Link: <http://www.childwelfare.net/activities/presentations/McKinneyVentoFAQ1.pdf>

Child Welfare League of America (CWLA)

Tips for Accessing Educational Supports for Youth in Out-of-Home Care is a two-page summary and overview of the McKinney-Vento Homelessness Assistance Act with links to a complete copy of the legislation and the latest guidance from the Department of Education.

Link: <http://www.cwla.org/programs/housing/mckinneyvento.htm>

National Center for Homeless Education

The Center provide resources to meet the educational needs of children and youth experiencing homelessness.

Link: <http://www.serve.org/nche/>

National Law Center on Homelessness & Poverty

The Law Center monitors and enforces compliance with the McKinney-Vento Act. It provides technical assistance to attorneys, service providers, parents and educators to ensure that homeless children gain access to public school. The site's resources include issue briefs, law practice briefs, and fact sheets.

Law Center link: http://www.nlchp.org/FA_Education/

U.S. Department of Education (DoE)

Non-Regulatory Guidance to the McKinney-Vento Homeless Assistance Act, Amended July 2004 is a DoE guide that explains how the Act ensures continued enrollment in a child's home school or immediate enrollment in a new school. The guide details the laws on the provision of federal funding for an array of supports including, but not limited to, tutoring, transportation, and cash assistance. Communities nationwide have applied McKinney-Vento eligibility to young people who have run away from a foster home, group home or other placement and to children in a number of temporary living arrangements including shelters, foster homes, group homes and evaluation centers.

Link: <http://www.ed.gov/programs/homeless/guidance.pdf>

Resource Summaries adapted from:

- ◆ Evan B. Donaldson Adoption Institute
- ◆ Nat'l Council of Juvenile and Family Court Judges (NCJFCJ)



CASES OF INTEREST

Federal Law

Individuals with Disabilities Education Act (IDEA)

U.S. 3rd Circuit Court of Appeals: Lawrence Township v. State of New Jersey (08/02/05 - No. 04-3637)
Plaintiff-Township does not have a private right of action under the Individuals with Disabilities Education Act to force defendant-State of New Jersey to fund a child's placement in a residential facility which specializes in care for autistic children.

Case link: <http://caselaw.lp.findlaw.com/data2/circs/3rd/043637p.pdf>

Federal and Constitutional Law

Adoption Assistance

U.S. 9th Circuit Court of Appeals: ASW v. Oregon
[Cite: No. 03-35950; 2005 U.S. App. LEXIS 19707 (September 13, 2005 – filed)]

Note: Bridges will have an expanded analysis of this case and its potential impact on states in its Spring 2006 edition.

The United States Court of Appeals for the Ninth Circuit reversed the district court's judgment that granted the defendant State's motion to dismiss plaintiffs' class action lawsuit under 42 U.S.C. § 1983. Plaintiffs were parents of adopted children with special needs. The parents alleged several violations of their rights under the Adoption Assistance and Child Welfare Act of 1980, 42 U.S.C.S. § 620 et seq. (the "Act"). The parents claimed that they were denied due process prior to reduction of their adoption assistance payments. The court found that the Act created federal rights enforceable pursuant to an action under § 1983. The court held that the district court erred in dismissing the parents' claims and determined that the parents had a statutory right to individualized hearings and determinations of payments. The court remanded the matter for further review.

Case link: <http://caselaw.lp.findlaw.com/data2/circs/9th/0335950p.pdf>

Sixth Amendment, Dependency Hearings

California Appellate Districts: In re April C. (07/27/05 - No. B178548)

The Sixth Amendment right of a criminal defendant to confrontation under the U.S. Constitution does not extend to parents in state dependency proceedings.

Case link: <http://caselaw.lp.findlaw.com/data2/californiastatecases/b178548.pdf>

Fourth Amendment, Qualified Immunity of Government Official

U.S. 10th Circuit Court of Appeals: Jones v. Haberman (06/15/05 - No. 04-2108)

Dismissal of plaintiff's Section 1983 suit, alleging defendant-social worker unlawfully seized her and demanded that she leave her mother's care, is reversed where defendant violated plaintiff's clearly established Fourth Amendment rights. The Fourth Amendment states that, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..."

Case link: <http://laws.lp.findlaw.com/10th/042108.html>

Termination of Parental Rights

California Appellate Districts: Grahm v. Super. Ct. L.A. (09/23/05 - No. B182354)

Under Family Code section 3422, California may terminate exclusive jurisdiction over a child custody determination only when there is both 1) a lack of significant connection between the child and the state, and 2) a lack of substantial evidence in the state concerning the child's care and personal relationships.

Case link: <http://caselaw.lp.findlaw.com/data2/californiastatecases/b182354.pdf>

California Appellate Districts: In re Michelle C. (06/23/05 - No. D044991)

The trial court violated plaintiff-mother's constitutional rights by terminating her parental rights at a hearing at which neither she nor her attorney were present.

Case link: <http://caselaw.lp.findlaw.com/data2/californiastatecases/d044991.pdf>

Arizona Appellate Districts: Linda V. v. Arizona Department of Economic Security (Cite: No. 1 CA-JV 04-0180, 2005 Ariz. App. LEXIS 91 (Ariz. Ct. App. Aug. 9, 2005)

The Court of Appeals of Arizona, Division One, affirmed the juvenile court's order terminating a mother's parental rights to her child because the child's sister was killed by the mother's boyfriend. The mother appealed stating that the child welfare agency could not terminate her rights to one child due to the abuse of another child by another person. The court ruled that under A.R.S § 8-533(B)(2) parents' rights to any of their children can be terminated if they abuse or neglect any child or permit another person to abuse any of their children.

Case link: <http://www.cofad1.state.az.us/opinionfiles/JV/JV040180.pdf>

Public Assistance Benefits

California Appellate Districts: In re Joshua S. (08/15/05 - No. B170343)

The juvenile court's order terminating jurisdiction over two brothers is reversed where placement with their grandmother in Canada did not render the children ineligible for public assistance in California. The Court ruled that California funding for AFDC-Foster Care is available if the children were to be in long term foster care. The Court stated that, "Although aid is generally available only to California residents (§ 11105, subd. (a)), section 11105, subdivision (d) provides the following exception for AFDC-FC payments:

'Nothing in this section shall be construed as limiting Aid to Families with Dependent Children-Foster Care payments to children placed out of state by California children's placement agencies.'"

Case Link: <http://caselaw.lp.findlaw.com/data2/californiastatecases/b170343a.pdf>

Foster Care

Liability, Child Welfare Agencies

New York Appellate District: Sean M. v. City of New York, 795 N.Y.S.2d 539 (App. Div. 2005)

Foster care children brought an action against New York City and child protective services alleging they were abused while in foster care. The Court found that the City was entitled to judicial immunity from claim that it negligently placed children in foster care, but claims of inadequate supervision of foster parents by defendants were not barred by statutory immunity, and defendants were not protected from liability under common law governmental immunity for any injuries children sustained while in foster care. The implication of the Court ruling is that the City of New York and the foster agency could be tried for liability for their failure to adequately supervise the children's placement in foster care.

U.S. 3rd Circuit Court of Appeals: Leshko v. Servis (09/09/05 - No. 04-2610)

A woman who was badly burned as a child while in the care of her foster parents sought to hold the state liable for the actions of the former foster parents. In order to be able to sue the state due to the actions of a foster parent, a case must be made under 42 U.S.C. 1983. In the words of the U.S. Court for the Third Circuit, "Section 1983 subjects to liability those who deprive persons of federal constitutional or statutory rights 'under color of any statute, ordinance, regulation, custom, or usage' of a state. See 42 U.S.C. § 1983. We consider actions 'under color of law' as the

equivalent of 'state action' under the Fourteenth Amendment.... Thus, to state a claim of liability under § 1983, Leshko (former foster child) must allege that she was deprived of a federal constitutional or statutory right by a state actor...[t]he Services (former foster parents) concede that Leshko alleges a deprivation of a constitutional right... (because previous cases have held that a state may be liable for conduct toward foster children that 'shock[s] the conscience'), so this appeal turns solely on whether the Services are state actors." The Court held that foster parents are not state actors for purposes of liability under 42 U.S.C. Section 1983.

Case link: <http://caselaw.lp.findlaw.com/data2/circs/3rd/042610p.pdf>

Dependency

California Appellate Districts: In re Tamika C. (08/09/05 - No. F047571)

Termination of a 19-year old's dependency is reversed where it would be in the child's best interests to remain a dependent until she graduates from high school.

Case link: <http://caselaw.lp.findlaw.com/data2/californiastatecases/f047571.pdf>

Case Summaries adapted from:

- ◆ The National Center for Adoption Law & Policy
- ◆ FindLaw
- ◆ American Bar Assn's Child Law Practice
- ◆ Center for New York City Law at N.Y. Law School

AAICAMA Welcomes Kathy Ledesma!

Kathy Ledesma, Adoption Program Manager and AAICAMA Compact Administrator for the state of Oregon, will be working with the Children's Bureau.

Kathy will be the federal project officer for AAICAMA's federal grant.

PARENT PERSPECTIVES

Legal Advocates for Permanent Parenting (LAPP) is a unique parent group located in California composed of juvenile dependency law specialists who are also experienced adoptive and/or foster parents. LAPP has a free, on-line service that is open to all, not just California parents. In October, 2004, LAPP was awarded a mini-grant by the Collaboration to AdoptUsKids, which they used to enhance their website and print brochures to advertise their services to parents. See below for a full description of LAPP.



LAPP: A New Legal Resource for Caregiver Families and the Professionals Who Work with Them
by Regina Deihl, Executive Director

Legal Advocates for Permanent Parenting (LAPP) is a legal informational and advocacy organization dedicated to supporting successful futures for children in foster care by increasing the capacity of their caregivers to meet their needs. The organization was founded in 2003 by California attorneys who had cared for foster children in their own homes as foster, kinship, and adoptive parents. Inspired by both their personal and professional experiences to create a program to ease the fostering and adoptive experience for others, LAPP attorneys began developing "plain language" legal materials and training for caregiver families and the child welfare professionals who work with them.

LAPP encourages and supports families by providing information, tools, and tips for navigating the complexities of the foster care system. The organization advocates for new approaches to recruiting and retaining foster and adoptive families and relatives. It also seeks ways to reduce barriers to permanency for children living apart from their parents in foster care. LAPP attorneys engage in public policy discussions with other child welfare stakeholders and are active in the California legislative arena. The organization works with juvenile court systems to streamline and standardize court rules and forms for use by foster, kinship, and adoptive parents.

Recent LAPP Accomplishments

Publications: In 2004, LAPP co-authored a national Legal Resource Manual and Curriculum for Foster Parents in collaboration with the National Foster Parent Association, the American Bar Association Center on Children and the Law, and the Child Welfare League of America. In 2005, LAPP published a series of twelve informational "Toolkits" on a range of legal topics in "plain language" for San Mateo County, California caregiver families.

Teaching and Public Speaking: LAPP maintains an ongoing speaking and training schedule, including speaking engagements at the the following conferences: American Bar Assn./American Psychological Assn., the National Center on Adoption Law and Policy, the Northern American Council on Adoptable Children (NACAC), the National Foster Parent Assn., the National Advocacy Summit, and other national, state and local conferences.

California Legislation: In 2003, LAPP successfully advocated for passage of SB 591, lauded by a member of the Pew Commission on Children in Foster Care as a common sense measure to provide California caregiver families with the information they need to provide quality care for children. In 2004, LAPP sponsored SB 1357 to ensure that California foster and kinship parents have the opportunity to participate in agency meetings about the children in their homes. In 2005, LAPP sponsored SB 358 that will allow California foster parents to utilize a "prudent parent" standard to decide who may baby-sit for their foster children for short periods of time and LAPP advocated for passage of SB 218 that creates a new category of foster parents in California designated as prospective adoptive parents who can request a court hearing if a child welfare agency seeks to remove a child from their home after parental rights have been terminated.

Collaboration: LAPP maintains ongoing relationships with public and private child welfare agencies, community college foster and kinship care education programs, foster and kinship caregiver groups, attorneys, juvenile courts and others involved in the child welfare system.

For more information on LAPP and its work, contact Regina Deihl, Executive Director at 650.712.1442 or rdeihl@LAPPonline.org.

MEDICAID EXCHANGE

The *Child Welfare Policy Manual* is an excellent resource for questions relating to children receiving Title IV-E adoption assistance or foster care. The Manual is provided by the U.S. Department of Health and Human Services, Administration for Children & Families and is maintained by the Children's Bureau. Section 8 is dedicated entirely to Title IV-E and can be found at the following Children's Bureau links:

http://www.acf.hhs.gov/programs/cb/laws/cwpm/policy_dsp_pf.jsp?id=8 (Entire Section 8) and
<http://www.acf.hhs.gov/programs/cb/laws/cwpm/policy.jsp?id=8> (Section 8, Table of Contents)

Bridges continues its Medicaid Exchange column in this issue with a question from the Child Welfare Policy Manual on Medicaid Redeterminations

Child Welfare Policy Manual, Section 8.2B.9

TITLE IV-E, Adoption Assistance Program, Eligibility, Redeterminations

Question: What are the requirements for redeterminations of Title IV-E adoption assistance eligibility?

Answer: The Title IV-E adoption assistance program does not require redeterminations of a child's eligibility. Although the Title XIX Medicaid program and the programs that, in part, may qualify a child initially for adoption assistance, such as Aid to Families with Dependent Children and Supplemental Security Income, require redeterminations, they are unnecessary for the purpose of maintaining a child's eligibility for Title IV-E adoption assistance. Once a child has been determined eligible and is receiving adoption assistance, a State may terminate the assistance only under the circumstances specified at section 473(a)(4) of the Social Security Act.

Source/Date: ACYF-CB-PA-01-01 (1/23/01)

Legal and Related References: Social Security Act - section 473

Title IV-E and Medicaid Redeterminations

Though this question in the Child Welfare Policy Manual is on the redetermination requirements for adoption assistance under Title IV-E, it also addresses Medicaid redeterminations and makes two distinct points. The first point is that the Title IV-E adoption assistance never requires a redetermination of eligibility and the second is that the Medicaid program generally does require redeterminations of eligibility.

For the purposes of Medicaid eligibility, Title IV-E eligible children are treated like AFDC eligible children because the eligibility for Title IV-E (foster care or adoption assistance) is based on eligibility for the former Aid to Families with Dependent Children Program. Though AFDC no longer exists, eligibility for Title IV-E foster care and adoption assistance is still tied to AFDC eligibility criteria. This is referred to as "AFDC linkage". When AFDC existed, eligibility for AFDC was automatic eligibility for Medicaid. Similarly, children who are eligible for Title IV-E are categorically eligible for Medicaid. However, though a child is categorically eligible for Medicaid through Title IV-E and the Title IV-E adoption assistance program does not require redetermination of eligibility, it does not follow that Medicaid does not require eligibility redetermination. Under federal law, Medicaid must generally be redetermined for all recipients at least every 12 months with respect to circumstances that may change. See the Code of Federal Regulations at 42 CFR 435.916, *Periodic redeterminations of Medicaid eligibility*, for complete details of agency requirements.

Link to the law at the following Government Printing Office website:

http://a257.g.akamaitech.net/7/257/2422/12feb20041500/edocket.access.gpo.gov/cfr_2004/octqtr/42cfr435.916.htm.

STAFF

Director, Interstate Affairs:

Liz Oppenheim, J.D.

Research Analyst:

Sharon McCartney, J.D.

Research Analyst:

Ursula Gilmore, M.A.

Secretariat Services provided by:
American Public
Human Services Association
810 First Street, NE, Suite 500
Washington, D.C. 20002
(202) 682-0100

We welcome comments or contributions.

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Bringing the Interstate Pieces Together

AAICAMA and AAICPC are holding their annual conferences in Tennessee.

AAICAMA will meet May 1-3, 2006

AAICPC will meet April 28-May 2, 2006

For agendas and registration information contact:

Robyn Bockweg at rbockweg@aphsa.org

810 FIRST STREET, N.E., SUITE 500, WASHINGTON, D.C. 20002-4267

ASSOCIATION OF ADMINISTRATORS OF THE INTERSTATE
COMPACT ON ADOPTION AND MEDICAL ASSISTANCE, INC.

