



Children in Transitional Living Situations (Foster Care, Kincare, Homelessness)

When a child's home life is upended by an eviction, placement with relatives, or removal to foster care, their school life can and should provide emotional shelter and familiarity. For this reason, various federal and state laws entitle such students to special school enrollment privileges as a way of encouraging school stability—that is, of limiting the frequency and length of educational disruptions. Because school stability looks different depending on each child's unique needs and preferences, children in transitional living situations are entitled to enroll in either their "school of origin" or their new "school of location." That entitlement includes access to free transportation to whichever school they attend. Local Education Agencies ("LEAs", typically local school districts) must facilitate the child's <u>immediate</u> enrollment.

This guide provides an overview of the two different pathways to school stability: the McKinney-Vento Homeless Assistance Act ("M-V") and the Fostering Connections to Success & Increasing Adoptions Act ("FC"). This guide is intended for professionals working in child welfare.

School Stability One-Pager is a quick reference on the educational entitlements of students in transitional living situations. Feel free to print and share!	2
Step 1: M-V or FC—Which Law Protects the Child? outlines which federal law protects the child's right to school stability.	3
Step 2: Fostering Connections and McKinney-Vento School Enrollment Flowcharts guide you through process for each pathway.	4–5
FAQs.	7–9
Special Education Basics and Referral Process is a quick reference to aid in assisting students with special needs as they transition into new schools.	10–13
Parental Consent to Special Education is a quick reference for determining who has decision-making authority.	14
Student Discipline Flowcharts & Trauma-Informed Interventions	15–16

Refer to our separate Student Discipline and **Special Education Guides** for more detailed information on each topic.

School Enrollment for PK-12 Children in Temporary Housing/Homes



Children without "fixed, regular, and adequate" housing*



Article 10 "Direct Placements"



parent/guardian/1017 "designates" district

DSS Caseworker, Child, Bio Parents,

Teachers, etc.:



School District "McKinney-Vento Liaison"





School District "Fostering Connections Point of Contact"



A. School District of Origin

- attended at time of displacement
- last attended

B. School District of Location

- zoned for current residence

may stay until **end of** school year° after . . .



Permanent Housing



*includes children sharing others' housing due to loss of housing, economic hardship, etc. ("doubling up"); abandoned in hospitals; "unaccompanied homeless youth"; or living in motels, hotels, trailer parks, camp grounds, cars, parks, public spaces, abandoned buildings, bus or train stations, or emergency or transitional shelters.

[†]even if missing birth certificate, health records, etc. (new school's responsibility to request from previous school)

A child who will enter their "terminal year" in a school building (e.g., 7th grader in a 6-8 bldg.), may stay for one additional year.

Refer to Nat'l Ctr. Homeless Education flowchart for more details on unaccompanied homeless youth.





II. M-V or FC—Which Law Protects the Child?

	McKinney-Vento [8 NYCRR § 100.2(x)]	Fostering Connections [NY Educ. Law § 3244]
Covered Students	 children without "fixed, regular, and adequate" housing "unaccompanied homeless youth" "direct placements" by Family 	children in foster care
	Court with friends and family ("1017" or "Article 10")	
Decision -maker	Parent/Guardian	LDSS or "Voluntary Agency" Caseworker (+ child, bio parent, teachers, etc.)
School District Contact	"M-V Liaison"	"FC Point of Contact"
School Options	 e.g., if a student who moves into permanent housing is in 7th grade in a school building that has students in 6th-8th grades, the student could stay through the end of 8th grade. But if that student's building had students in 6th-9th grades, they could stay only through the end of 7th grade. o "feeder schools" entitlement e.g., if students at Green Elementary are entitled to continue at Green Middle (but those outside the "Green Residential Zone" must apply/ 	
		n Middle), a Green Elementary student in e could automatically enroll at Green Middle.

Children without "fixed, regular, and adequate" housing include those:

- sharing others' housing due to loss of housing, economic hardship, or similar reason ("doubling up");
- living in
 - o motels, hotels, trailer parks, camp grounds;
 - o cars, parks, public spaces, abandoned buildings, bus or train stations, etc.;
 - o emergency or transitional shelters;
- abandoned in hospitals; or
- whose primary nighttime residence is a public or private place not designed for or ordinarily used as a regular sleeping accommodation.

III. Fostering Connections School Enrollment Flowchart

"School stability"
(i.e., remaining at school of origin) is the <u>default</u> choice.

Removal

10 days

DSS/Vol. Agency (w/ team)

Best Interest Determination

(Default: School Stability)

FERPA school records exception for LDSS case managers

LDSS case manager considers comprehensive school-stability criteria

See NYS <u>Toolkit</u>
for criteria and
forms.

*transportation
costs <u>cannot</u> be
considered

School of

Attendance Immediate Enrollment and Records Request

LEA POC facilitates; written request to school of origin for all records (academic, health, residency, etc.)

school cannot exclude due to lack of otherwise required documentation

5 days

School of Origin

Records Transfer

FERPA exception for students enrolled in new schols (i.e., no separate consent form required)

School of Attendance

Implement Existing Special Education Plans

IEP portable ("comparable services")

504 Plan may be reviewed

DSS

Update Case Record

add educational and health records (inlcuding IFSPs, IEPs, and 504s)

give copies to foster care provider

See our separate "Parental Consent Chart."

DSS

Monitor Educational Progress

LDSS cannot make special education decisions; foster parent may sometimes do so

Except: LDSS caseworker may refer for special education evaluation

Consider special education for learning and social-emotional difficulties. PTSD often manifests in "difficult behaviors."

IV. McKinney-Vento School Enrollment Flowchart

Removal

If you have trouble enrolling, ask to speak with the district's "McKinney-Vento Liaison."

parent/ guardian/ 1017

McKinney-Vento Designation

Caretaker completes school district's McKinney-Vento designation form; must explain basis for classifying student as "homeless."

School of Attendance

Immediate Enrollment and Records Request

LEA requests all records (academic, health, residency, etc.) from school of origin

school cannot exclude due to lack of otherwise required documentation

5 days

School of Origin

Records Transfer

FERPA exception for students enrolled in new schols (i.e., no separate consent form needed)

School of Attendance

Implement Existing Special Education Plans

IEP portable ("comparable services")

504 Plan may be reviewed

See our separate "Parental Consent Chart."

DSS

Monitor Educational Progress

DSS <u>cannot</u> make special education decisions; 1017 custodian sometimes may do so Except: DSS caseworker may refer for special education evaluation

Consider
special
education for
learning and
socialemotional
difficulties.
PTSD often
manifests in
"difficult
behaviors."

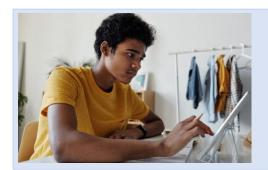
Profiles of Students in Transitional Living Situations



Amina is a sixth grader who recently was removed from her parents' home in Town A and placed with a foster family in Town B, 40 miles away. After speaking with Amina's teachers and with Amina herself, Amina's Foster Care Agency caseworker learned that she had many great friends at School A and was doing well in her classes. The caseworker also knows that the goal is reunify Amina and her parents in Town A as soon as possible. The caseworker concluded that remaining at School A was in her best interest and arranged for busing.

Jean is a fourth grader whose biological parents' rights were terminated several years ago. He recently was moved from a congregate care facility in Town C to a pre-adoptive foster family in Town D. After speaking with Jean's teachers, his Agency Caseworker learned that he was doing okay—but not great—at School C and that School D has a wonderful special education program that better could meet Jean's complex needs. The caseworker also knows that Jean's new foster family could best participate in his special education planning if he enrolls in School D, and that Jean wants to attend school with his new siblings. The caseworker concluded that transferring to School D was in his best interest and facilitated his immediately enrollment.





Aakash is a high school junior. His parent's home in Town A burned down in August, and his family moved in with his grandmother in Town B until October, when they moved into a new home in Town C. Under McKinney-Vento, Aakash may continue at School A until the end of his junior year . . . and until the end of his senior ("terminal") year.

Maria is a high school sophomore who recently escaped her parents' abusive home in Town A and entered a shelter in Town B. Maria does not intend to return to Town A, and she wants to avoid all contact with her parents and their friends. Working with School B's McKinney-Vento Liaison, she enrolls in School B as an unaccompanied homeless youth. School B then requests and receives her educational records from School A using the school-to-school transfer exception, without needing her parents' consent.



V. Frequently Asked Questions

What if the school/district refuses to enroll a child?

Contact the school district's "McKinney-Vento Liaison" or "Fostering Connections
Point of Contact." Under federal law, every school district must designate such
individuals and ensure they attend special trainings on the relevant law. If you do not
know who the district's M-V Liaison or FC Point of Contact is, call the school's front
office and ask to be connected. The liaison/POC will walk you through the enrollment
process.

The child is missing documents normally required to register for school. Can the school refuse enrollment on this ground?

• No. If a child qualifies under either M-V or FC, the school <u>cannot</u> demand documentation (such as proof of residency, birth certificate, proof of immunizations, etc.) before enrolling them. Instead, the school must immediately enroll the child and then request those documents from the child's prior school.

The school district disagrees that the child qualifies as a "homeless student" under the McKinney-Vento Act. Can they refuse enrollment?

- No. Even if the school disagrees that a child qualifies under McKinney-Vento, it still must immediately enroll the child and then challenge the enrollment. In other words, it is the school's responsibility to oppose enrollment.
- If the school challenges a child's enrollment, it must give the parent/guardian written notice that it disagrees that the child is living in temporary housing. The parent/guardian then has 30 days to appeal that decision, and the student must remain in the chosen school until the appeal is resolved. If the parent/guardian doesn't challenge the notice, the student will be un-enrolled after 30 days.

If you have questions about McKinney-Vento, NYTEACHS provides free technical assistance. Call the NYSTEACHS hotline at (800) 388-2014 or visit their website at nysteachs.org.

See our separate "M-V Dispute Letter" and "FC Dispute Letter" Templates.

The child isn't up-to-date on their physicals and vaccinations. Can the school refuse enrollment on that ground?

- No. The school must immediately enroll the child, regardless of whether they have all documents normally required to register. The school then requests the child's records from their previous school.
- If the child does not have a current health certificate, the school must offer them a "health appraisal," typically 30 days after enrollment. The school cannot exclude a

- child from school because they lack a health certificate, unless the parent affirmatively refuses consent to the appraisal without a valid religious objection.
- If the child doesn't have all required vaccinations, the school must provide the parent/guardian with information on free, county-sponsored vaccination programs. The child may remain enrolled in and attend in-person school if they (a) present proof of all required vaccines within 14 days; or (b) receive the first dose of required vaccines within 14 days and proof of scheduled follow-up appointments. Note that New York no longer recognizes religious objections to vaccination requirements. Only "valid medical exemptions" are permitted.

The child remains enrolled at their "school of origin." Can they get transportation from their current, temporary housing to their original school?

- Yes. The school of attendance—whether the school of origin or location—must offer free transportation to students in temporary housing/foster care to their chosen school *if the distance is 50 miles or less*. That transportation must continue until the end of the school year in which the student moves into permanent housing (or, as explained above, one additional year if that additional year is a "terminal year").
- The school also must offer transportation that allows the child to participate in extracurricular activities (such as before- and after-school programs) if the child would have difficulty doing so without such transportation. Schools must provide extracurricular transportation even if they do not provide this service to resident (permanently-housed) students.

May someone other than a parent make educational decisions for the child?

- For purposes of general education, parents, guardians, and persons in parental relation may make decisions for a child. Persons in parental relation include:
 - o father or mother, by birth or adoption;
 - o step-father or step-mother;
 - o legally-appointed guardian; or
 - custodian individual who assumed the child's charge and care because parents/guardians:
 - have died, are imprisoned, are mentally ill, or have been committed to an institution;
 - have abandoned or deserted the child;
 - are living outside the state or their whereabouts are unknown; or
 - have designated the person.
- For purposes of accessing/disclosing records, "parents" include a natural parent, a guardian, or "an individual acting as a parent in the absence of a parent or guardian."
- For purposes of special education, see the flow chart on page 12.

See our separate Parental Relation Designation Form.

Unaccompanied Homeless Youth

Unaccompanied youth include persons under 21 who do not live in the physical custody of a parent/guardian. The term includes youth living on their own or with non-parent/guardian caretakers. M-V protections apply if the child also lacks "fixed, regular, and adequate" housing.

Education

Refer to Nat'I
Ctr. Homeless
Education
flowchart for
more details on
unaccompanie
d homeless
youth.

- UHY are entitled to immediately enroll in school under McKinney-Vento. Schools may not condition enrollment upon caregivers' proof of legal guardianship; nor may they require caregivers to become legal guardians.
- o It is the school's—not the child's—responsibility to request records from the child's prior school; parent consent is not needed. Although schools are not required to grant minors access to educational records, federal law *permits* them to do so.

Health Care

Minors generally may not consent to health care and require their parents'
 consent. Certain categorical exception apply, including married and pregnant or parenting minors. Additional exceptions apply to specific types of care:

Mental Health	 Outpatient mental health services if parent/guardian unavailable, parental involvement deemed detrimental, and/or treatment deemed necessary. Inpatient mental health services if age 16+. Psychotropic medications available at age 16+ If same conditions met and two physicians deem treatment necessary. 	
Substance Abuse	l unavailable, parental involvement deemed detrimental, and/or	
Sexually Transmitted Infection	Any minor who is infected with or has been exposed to a Sexually Transmitted Infection ("STI").	
Abortion and Contraception	Any minor capable of informed consent; no parental notification required.	
Sexual Assault	Sault Any minor capable of informed consent.	
Vaccinations Certain adults caring for a minor may consent to vaccination (e individual could not consent to other healthcare), unless they be parent would refuse consent.		

More information at nyclu.org/sites/default/files/thl.pdf.

Public Benefits

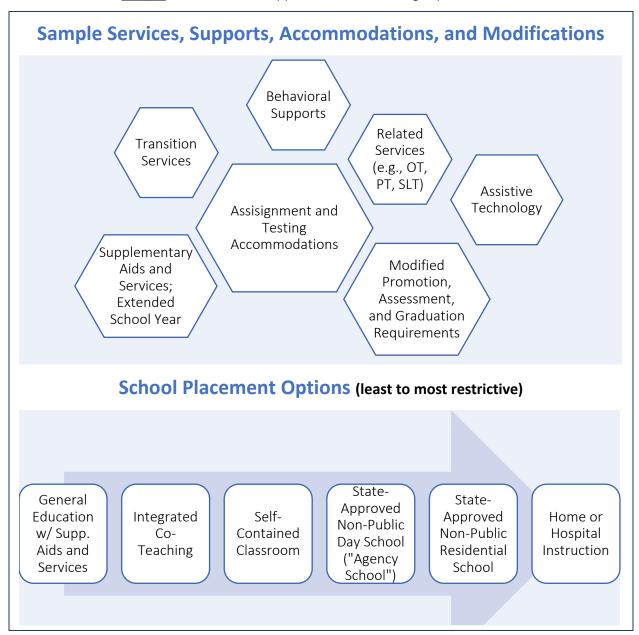
- o If UHY access public benefits, DSS may sue parents for support in Family Court.
- UHY are eligible for Medicaid and the Supplemental Nutrition Assistance Program ("SNAP") as single individual households; they must meet other eligibility criteria, including income limits, immigration restrictions, and employment requirements.
 - Find more information at https://mybenefits.ny.gov/mybenefits/begin.
- O With few exceptions, UHY may access Temporary Assistance for Needy Families ("TANF") only if parenting.

VI. Special Education Basics

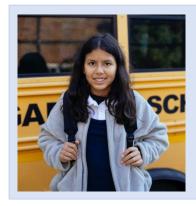
Special education is a continuum of services, supports, accommodations, and modifications aimed at helping children with disabilities succeed in the "least restrictive environment" appropriate to their strengths and needs. Special education is a service, not a place.

Special education helps not only students with learning disabilities but also those with "behavioral needs." Because of the strong correlation between childhood trauma and difficult behaviors, consider whether children who face persistent school discipline might benefit from special education—including its extra discipline protections.

Below is a <u>sample</u> of some of the supports available through special education.



Profiles of Students Receiving Special Education



Amina is a sixth grader with Attention-Deficit Hyperactivity Disorder ("ADHD"). She has an "aide" (assistant) to help her stay focused in her regular classroom. The aide also reads test questions aloud to Amina and administers her tests because Amina gets double the time of her classmates to complete them.

Jean is a fourth grader with autism spectrum disorder. He attends an integrated co-teaching classroom with both disabled and nondisabled students, one general education teacher, and one special education teacher (25:1:1). Jean also receives speech and language therapy three times per week and occupational therapy two times per week. When his classmates take the New York State Grade 4 Elementary-Level Math and English Language Arts tests in the spring, Jean will join them for the Math test but take the New York State Alternate Assessment for ELA.





Aakash is a high school senior who is deaf. He attends St. Mary's School for the Deaf as a boarding student. He attends classes during the week and returns home on weekends. All of his classes are with other deaf and deaf-blind students. Jean is on track to earn a Regents diploma and attend college next year.

Maria is a high school sophomore with a mood disorder. She has all of her "core subjects" (Math, English, Science, and Social Studies) in a self-contained classroom of twelve students with disabilities, a special education teacher, and two aides (12:1:2); she has Art, Music, and Gym with her typically-developing peers. Maria also receives individual counseling once per week. Maria's school created a Behavior Intervention Plan for her that has reduced disrupted learning time. Maria is on track to earn the CDOS commencement credential and plans to be an electrician after high school.



See our

separate

"(Re)Evaluation

Request Letter"

Template

Special Education Referral Process for Child Welfare Workers

8 NYCRR § 200.4

Step 1: Referral

- written letter
 - o "referral for special education"
 - "parent"*;
 - DSS caseworker
 - o request for "referral for special education"
 - judicial officer
 - o request for "referral for special education + explanation"
 - teacher, principal, other school official;
 - professional staff of public agency responsible for welfare, health, or education of children (often, non-DSS caseworker);
 - physician

Step 2: "Parent"* Consent to Evaluate

 not required if child a "ward of the state" (often, children in congregate or institutional settings whose parents' rights terminated)

Step 3: Evaluation

- comprehensive evaluation that assesses "all areas of suspected disability"
 - o default: physical exam, psycho-educational exam, social history, classroom observation
 - o other "appropriate" assessments (e.g., functional behavioral assessment, occupational/physical/speech therapy evaluation)
- if evaluation inaccurate/inadequate, may request "Independent Educational Evaluation," at district expense; district must either pay or affirmatively oppose

Step 4: Committee on (Preschool) Special Education Meeting

- "parent"* must be given equal voice
 - o school district appoints "surrogate"* if needed
 - o DSS/agency caseworkers <u>cannot</u> make special education decisions
- develop Individualized Education Program ("IEP")
 - o child's present levels of academic and social/emotional performance
 - o child's short-term and annual goals
 - services, supports, modification, and accommodations to facilitate meaningful educational progress
 - o provided in the "least restrictive environment"

Step 5: "Parent"* Consent to Services

Step 6: Implementation

Family Court, DSS, OMH must refer to CSE for evaluation if considering residential placement.

Surrogate Parents

If a child does not have a "parent," as defined in Educ. Law § 3212 (see chart below), the School District must appoint a "surrogate parent" to protect the child's interests in special education matters (including identification, evaluation, and placement).

Any individual "involve[d] [in] the education or treatment of students" who knows of a student who lacks a "parent" and "may need special education services" may request that the CSE assign a surrogate. "Within a reasonable time," the CSE must determine, in consultation with DSS, whether a surrogate is needed. If so, the CSE selects one from a list maintained by the school district within 10 business days.

- A foster parent may be appointed as the surrogate even if not listed on the districtmaintained list.
- The following individuals may not serve as surrogates:
 - employees/agents/officers of the school district or State Education Department;
 and
 - o employees/agents/officers of an agency involved in the education/care of the student (e.g., DSS or agency caseworker).

Residential Placements

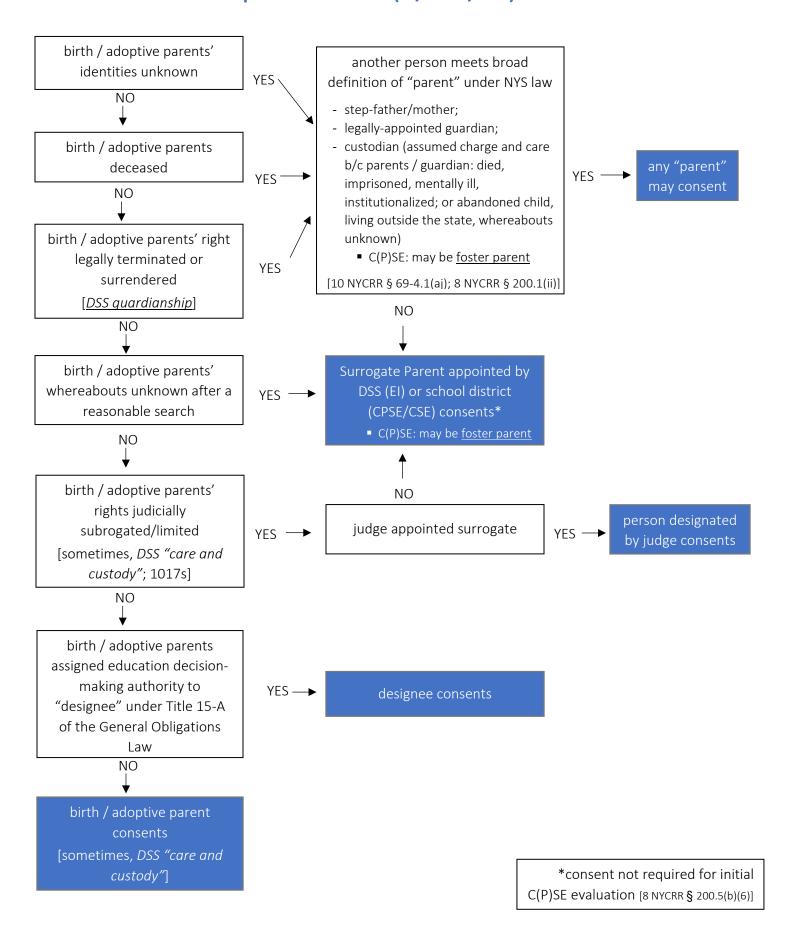
[N.Y. Educ. Law § 4005(1); 8 NYCRR § 100.4(h)]

Whenever the following individuals "consider[]" placing a child "thought to have a handicapping condition" in a "child care institution," they "shall request the school district of residence . . . provide that [its CSE] evaluate such child and . . . forward a written evaluation and recommendation [for appropriate educational services] within forty-two days of such request."

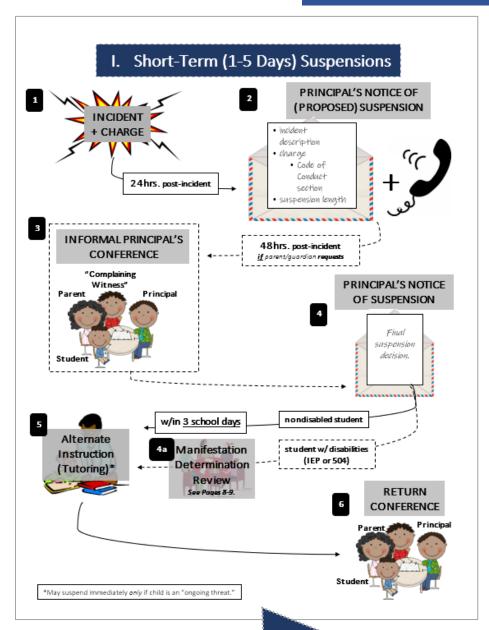
- Family Court [N.Y. Educ. Law § 4005(1)(a)]
 - o N.Y. Fam. Ct. Act § <u>353.3</u> (J.D.); <u>756</u> (PINS); <u>1055</u> (A&N)
- Department of Social Services [N.Y. Educ. Law § 4005(1)(b)]
- Division for Youth [N.Y. Educ. Law § 4005(1)(c)(ii)]
 - o Exec. Law § 19-G
- Office of Mental Health [N.Y. Educ. Law § 4005(1)(d)]
 - o placement in RTF under N.Y. Mental Hygiene Law § 9.51

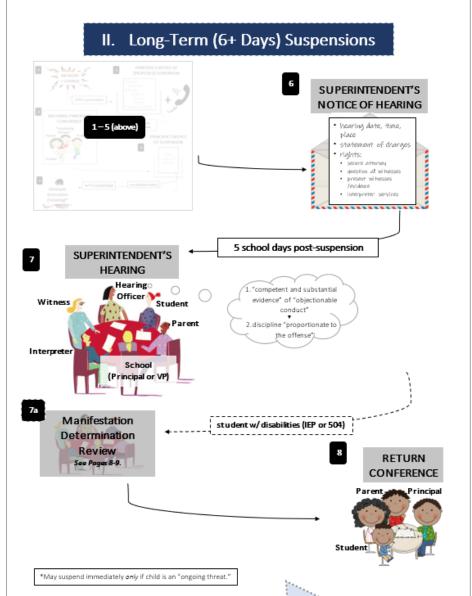
"[T]he family court . . . may order[] any . . . school district . . . to . . . review, evaluate, recommend, and determine the appropriate special services or programs necessary to meet the needs of a handicapped child, but shall not require the provisions of a specific special service or program, and such order shall be made only where it appears to the court or judge that adequate administrative procedure to require the performance of such duties is not available." N.Y. Fam. Ct. Act § 255 (citing N.Y. Educ. Law §§ 4005, 4402 [evaluation], 4404 [impartial hearing]).

Parental Consent to Special Education (EI/CPSE/CSE) Evaluations and Services



VII. Student Suspensions





See our separate "Princ. Conference & Alt. Instruction Request Letter" Template.

The BPS Code of Conduct is available at <u>www.buffaloschools.org/Page/4777</u>.

Trauma and School Discipline

Neuroscience research shows that children who have experienced chronic stress and/or trauma are more likely than their peers to have difficulty focusing in school, responding to classroom stimuli, and learning reading and math.

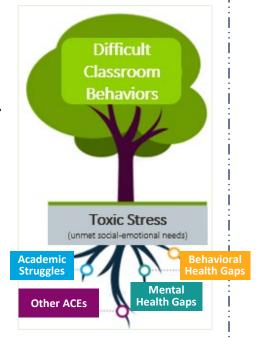
Chronic stress is caused by many things, including living in poverty, exposure to violence and abuse, homelessness, and exposure to systemic racism. Chronic stress causes biological changes to the structure of a child's brain, making it more difficult for them to focus, learn, and make friends. For example, many children who have experienced trauma are "hypervigilant"—they are constantly on the lookout for new dangers and, consequently, may "overreact" to small stressors such as another child's teasing. For this reason, children who have experienced trauma are more likely to be suspended from school than their "neurotypical" peers.

If your child has been exposed to these conditions, and you believe that experience might be the cause of their difficulties in school (including behavioral and academic struggles):

- discuss your child's experience during the informal principal's suspension conference; ask the school to provide therapeutic interventions instead of suspension;
- write a letter to the hearing officer explaining the role of trauma/chronic stress in your child's behavior and asking for a shorter suspension; and
- contact the school's Student Support Team to discuss ongoing supports and services that may help your child cope with their stress/trauma.

Interventions for Children Who Have Experienced Trauma/Toxic Stress

- A. increase **predictability** and sense of control
 - o visual daily schedules
 - o advance notice of fire drills
 - o preferential seating
 - o logical and consistent rule enforcement
- build executive functioning skills
 - o organizational aides
 - o problem-solving techniques
 - o safe opportunities to fail
- Behavior Intervention Plans
 - o ISSPs; identify "safe places" and "safe persons" the child can access when stressed
- related services
 - o speech therapy for language delays
 - o occupational therapy for motor delays
- movement and sensory opportunities
 - fidget tools
 - o opportunities to go for a walk, doodle, hum, rock, dance, sing when stressed
- opportunities to build peer supports and relationships
 - o preferential seating
 - o adult vigilance re: bullying
 - o group counseling with peers; mentorship programs



Buffalo Public Schools Contacts

Office	Address	Contact Info
Central Registration	33 Ash St Buffalo, NY 14204	(716) 816-3717
Pupil Personnel Services	432 City Hall Buffalo, NY 14202	(716) 816-3547
Central Office for Alternate Instruction		(716) 816-3632
Preschool Special Education	Room 210 33 Ash St. Buffalo, NY 14204	(716) 816-4745 <u>BuffaloCPSE@buffaloschools.org</u>
Central CSE	Room 203 33 Ash St Buffalo, NY 14204	General Questions (716) 816-4747 spedquestions@buffaloschools.org Placement Questions (716) 816-4647 SPEDPlacement@buffaloschools.org
		Records Requests (716) 816-4902 Spedrecords@buffaloschools.org
School CSE		Contact the principal, Student Support Team (SST), or (CSE) at your child's school.
Coordinator for Parent Services at Central CSE		(716) 816-4747
Section 504 Central Office	Room 119 33 Ash St. Buffalo, NY 14204	P: (716) 816-7124 F: (716) 878-9707
BPS Section 504 Central Administrator	Room 219 School # 197 646 E. Delavan Ave. Buffalo, NY 14215	Jennifer L. Jones, PhD (716) 816-3939 iljones@buffaloschools.org
McKinney-Vento Homeless Students Assistance Act Liaison	Central Registration Center 33 Ash Street Buffalo, New York 14204	Hoa Mai (716) 816-3971 HMai@buffaloschools.org Marva Brown 716-816-4907 msbrown@buffaloschools.org Frances Cruz Ramos 716-816-4919 fcruzramos@buffaloschools.org
Foster Care Liaison	Greg Isaacs	gisaacs@buffaloschools.org

Notes

