**Delaware's School Stability Statute for Youth in Foster Care:**

*How we did it. Where we're heading.*



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## Overview

- OCA/CPAC
- History
- Delaware Statutes and Regulations
- Memorandum of Understanding
- Benefits of Delaware's school stability law
- Opportunities to improve upon school stability
- Path forward



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## Office of the Child Advocate

- Tania Culley is Delaware's Child Advocate and Executive Director of Delaware's Children's Commission (Child Protection Accountability Commission)

- Four Deputy Child Advocates provide legal representation to children in all three counties (with caseloads of 35 children in each). In addition, OCA has about 375 volunteer Delaware attorneys who represent one child or sibling group on a pro bono basis.

**What We Do:**
- Provide legal representation to abused, neglected or dependent children or those at risk thereof
- Collaborate with the Children's Department, DOJ, Family Court, Law Enforcement, and Medical Community to evaluate the effectiveness of the child protective system and make recommendations for change
- Serve on Committees/Task Forces regarding the rights of children
- Provide public awareness and training
- Staff the Child Protection Accountability Commission (CPAC)

## Child Protection Accountability Commission (CPAC) – 16 Del. C. 912

- Requires leaders of all agencies to meet at least four times per year – child welfare, mental health, Court, education, law enforcement, medical, advocates, prosecutors, legislators
- Recommends Changes in Child Welfare Policies and Procedures
- Advocates for Legislation
- Develops and Provides Quality Child Protection Training
- Reviews and Make Recommendations Concerning the Well-being of Delaware's Abused, Neglected, and Dependent Children
- **Clearinghouse for collaborative efforts to improve the child welfare system**

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## Why is CPAC important for McKinney Vento/School Stability?

- CPAC Committees and Joint Committees with Child Death
- In 2004, the CPAC Educational Needs of Foster Children Committee was formed
- Charge of Committee – ESP coordination, McKinney Vento, Training, MOU
- Membership – Family Court, DOE, ESP, OCA, Foster parent, DFS and others

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## CPAC Educational Needs of Foster Children Committee

- The Committee reviewed the following:
  - June 2004 - Senate Bill 271 passed – codified McKinney-Vento into state law.
  - July 2004 – DOE reports that, federal guidelines are released indicating children "already in foster care ... are not considered homeless."
  - August 2004 - DOE enacts a policy to include all foster children as homeless under the McKinney Vento in accordance with its previous practice since 2001.
  - **DOE pays 90% transportation costs – Districts pay 10%**

## CPAC Educational Needs of Foster Children Committee

- October 2004 – DOE recommends a statutory change to Committee
- January 2005 – CPAC endorses concept
- May 2005 – CPAC approves draft legislation – endorses it as a CPAC bill
- June 2005 – House Bill 279 introduced – NO fiscal note
- July 7, 2005 – HB279 signed by Governor

## Delaware Statute
## 14 Del. C. § 202(c)



- **What does it say?**
- Persons attending the public schools of this State shall attend the public schools in the school district within which they reside… Notwithstanding the foregoing, homeless children and unaccompanied youth…shall attend school in accordance with the McKinney-Vento Homeless Education Assistance Improvement Act [42 U.S.C. §§ 11431 to 11435];…
- For the purpose of this section and provisions of the McKinney-Vento Homeless Education Assistance Improvement Act [42 U.S.C. §§ 11431 to 11435], the words **"awaiting foster care placement" include all children in foster care.**

## Delaware Administrative Law
## 14 Del. Admin Code § 901

- **Purpose**
  - the intent of this regulation is to ensure the educational rights and protections for children and youth experiencing homelessness. (based on 42 U.S.C. §11431 et. seq.)
- **Definition**
  - "Awaiting foster care placement" as defined by the provisions of 14 Del. C. §202(c) includes **all children in foster care**.
- **Duration**
  - For the most part, it has been applied to the entire time a child is in "foster care" and foster care has been equated with DSCYF custody.



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## Delaware Administrative Law
### "The Regs"

**Immediate Enrollment**
- A school district <u>must</u> immediately enroll the student in either the school of origin (as defined in 42 U.S.C. 11432(g)(3)(G)) or the school within the child's out-of-home placement feeder pattern school based on a best interest meeting.

- The decision is made by the parent, guardian, relative caregiver or homeless youth, pending resolution of the dispute.

**Examples of Best Interest Meeting Factors:**
- Distance
- Duration of travel
- Special needs
- Prospect for quick family reunification

**Best interest determination requirements:**
- A written explanation of the school's decision.
- A right to initiate the dispute resolution.
- Notice of the right to enroll immediately in the school of choice pending resolution of the dispute, which includes full participation in all school activities for which the student is eligible.

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## Delaware Administrative Law
### "The Regs" Continued

**District Level Dispute Resolution Process**
- Within ten (10) business days of seeking enrollment, the school district must issue findings in writing and notify the parties of an opportunity to appeal.

**Inter-district Resolution Process**
- Within 10 days, the school districts must meet to resolve a dispute over enrollment/transportation funding.
- If they can't agree, the dispute goes to the Secretary of Education who then makes a determination based on the student's best interest, as defined in 42 U.S.C. §11432(g)(3).
- This is not a significant issue usually as DOE pays 90% of transportation costs.

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## Training

*Building Partnerships for Delaware's At-Risk Children*

**EDUCATION & CHILD WELFARE**

*COME JOIN US IN MAKING A DIFFERENCE FOR OUR CHILDREN!!!!*

Friday, October 7, 2005
8:00 a.m. – 4:00 p.m.

Dover Downs Conference Center
Dover, Delaware

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THE CHILD PROTECTION ACCOUNTABILITY COMMISSION
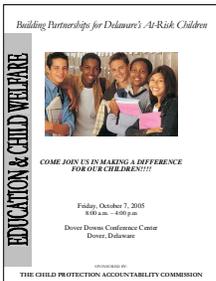
- CPAC Committee
- Education and Child Welfare Conference 2005: multidisciplinary conference – Workshops offered on "McKinney-Vento 101" – local and national speakers
- 400 Attendees – In-service Day
- Kathleen McNaught, Esquire from ABA – was keynote

## Next Steps -- Memorandum of Understanding – Schools and Child Welfare



- From 2005 – 2008, DOE, DSCYF, School Districts and CPAC Committee (which was renamed the Education Committee) drafted MOU to address McKinney Vento, Mandatory Reporting, Transitions, etc.
- MOU signed in 2008 by DSCYF, DOE and 19 school districts.

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## Duties under the MOU

- DSCYF
  - Provide care, supervision, and placement of children in court-ordered legal custody of the Department/Division.
  - Plan with families for the child's educational needs.
  - Request a Best Interest Meeting with the School's Homeless Liaison upon initial placement in foster care and when there is a change in foster family placement.
    - The meeting must take place prior to removing the student from their current school and before any decisions are made about school placement and transportation.



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## MOU – Schools and Child Welfare

- DSCYF requirements continued:
  - Enroll or withdraw a child who is in foster care in school based on the Best Interest Meeting immediately.
  - Provide/arrange for transportation until school transportation to school of origin is established.
  - Provide the school with information regarding the last school of attendance, grade, credits, and whether the child is receiving special education services.
  - Attend an annual "best interest of the child meeting" at the child's school.

* At least 1 Family Court Judge has issued an order requiring DSCYF to ensure that a best interest meeting occurs before a youth in foster care switches schools.

## MOU – Schools and Child Welfare

□ **School/DOE requirements:**
- Provide transportation to the school of origin if in the child's best interest.
- Enroll a child in foster care within <u>two school days</u> of referral in a new school even if no records are available.
- Ensure that the receiving school promptly obtains school and medical records from the sending school.
- Immediately apply full credits and consider partial credits.
- Host a meeting in May, with all involved parties (district/ school liaison, foster parent, caseworker, parent, Guardian ad litem, CASA, and child) to determine whether it is in the best interest of the child to remain in the school of origin.

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## Children in Foster Care/DSCYF Custody
## 13 Del. C. § 2521

In 2009, DSCYF Custody statute was passed.

13 Del. C., Ch. 25

□ School of origin is defined as the school the child attended at the time the child was placed in the custody of DSCYF. **§ 2502(18)**



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## Children in Foster Care/DSCYF Custody
## 13 Del. C. § 2521

□ DSCYF, as custodian, is vested with the following duties and powers (in pertinent part):
- To continue the child in the child's school of origin, or when not feasible or in the child's best interests, to immediately enroll the child in school pursuant to § 202 of Title 14. The Court shall determine if the school placement is in the child's best interests. §2521(3)

## Children in Foster Care/DSCYF Custody
### 13 Del. C. § 2521

- To consent to educational decisions, subject to applicable state and federal law, including but not limited to, disciplinary proceedings and consequences, academic needs and extracurricular activities of the child, and to request the appointment of an educational surrogate parent when appropriate. DSCYF shall make reasonable efforts to obtain the consent of the parent, and to notify the GAL, prior to making any educational decisions on behalf of the child. § 2521(4).

## Benefits of Delaware's Law

- Increases school stability for students in foster care.
- Enables students to maintain some level of routine and normalcy while in care.



- Enhances ties to school and the community.
- Maintains home school if family reunification is achieved.
- Helps address behavior issues, special education, and other accommodations if the school is familiar with the child.
- Maintains home school even if the foster placement disrupts.
- Captures all foster youth in the McKinney-Vento census for funding or other identification purposes.

## Delaware Statistics – 2012

- 3,882 Homeless Youth – 525 Foster Care
  - About 200 children in foster care take advantage of McKinney Vento – 38% of 525
- Data exchange
  - Monthly Reports to schools
- Foster Care Transportation Costs
  - About $356,000/year
  - 90% DOE/10% District

## Opportunities for improvement

- The MOU requires a best interest meeting. However, Best Interest Meetings are not consistently happening at the end of the school year or before a child is enrolled..
- DSCYF does not always invite all of the stakeholders: i.e. parents, foster parents, CASA/GAL, or the child (if age appropriate) to these meetings.
- Occasional confusion if best interest placement ends at the conclusion of the school year.

- Despite data exchange, not all schools are made aware: (1) when the child enters foster care, (2) when a placement disrupts, (3) or who is legally required to make decisions for the child based on parental rights, special education needs, or foster family involvement.
- Schools may permit children to remain in their home school, but do not always encourage or arrange for participation in extra curricular activities due to transportation schedules.
- Delaware hasn't yet begun to tap into IV-E funds to recoup federal $ for transportation

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## Delaware's Path Forward

- Delaware Educational Summit - Spring 2013- involving Courts, School Districts, DSCYF, GAL/CASA, Foster Parents, and Youth in foster care.
- Increased Youth Involvement

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## Delaware's Path Forward

- IV-E Reimbursement through Fostering Connections
  - Identification of IV-E children who need transportation
  - Logistics/Billing
  - Transfer of monies between DSCYF and DOE
  - Potential to recoup about $150,000
  - Technical Assistance

## Delaware's Path Forward

- CPAC Education Committee
  - Data Exchanges, Performance Measures, Improving Outcomes
  - MOU – Updates and Training
  - Cross Training and Collaboration
    - Fundamentals
    - Special Education
    - Cheat Sheets



## Questions?