

Protecting the Educational Rights of Court-Involved Children and Youth

SCHOOL STABILITY

**WHY DO WE CARE ABOUT SCHOOL
STABILITY?**

Video clip

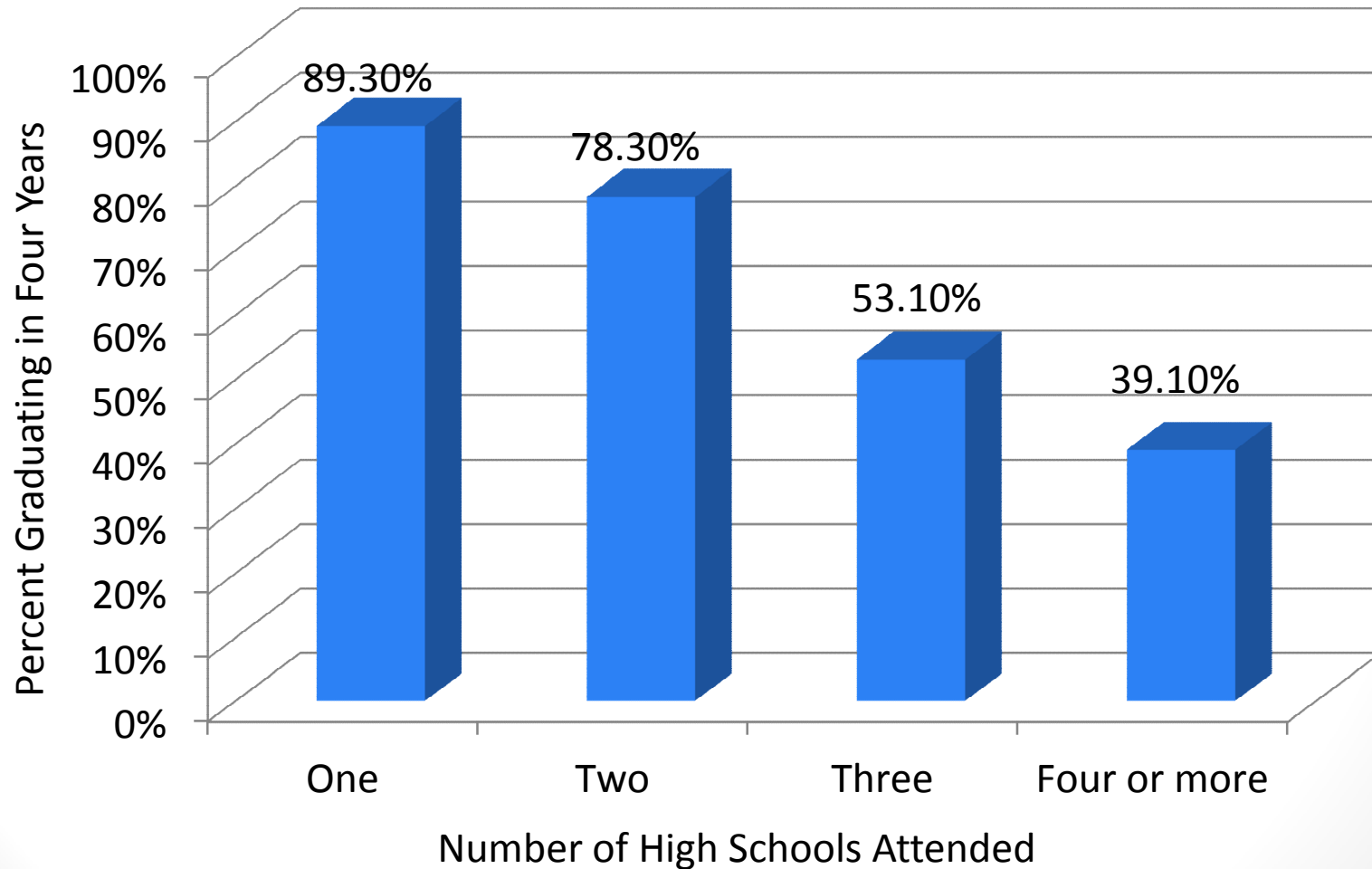
The National Data: Mobility

- 3.38 living placements (on average) for school age children in foster care in FY 2009
- 56-75% of children in care change schools when they first enter the system
- 34% of 17-18 year olds in care have experienced 5+ school changes

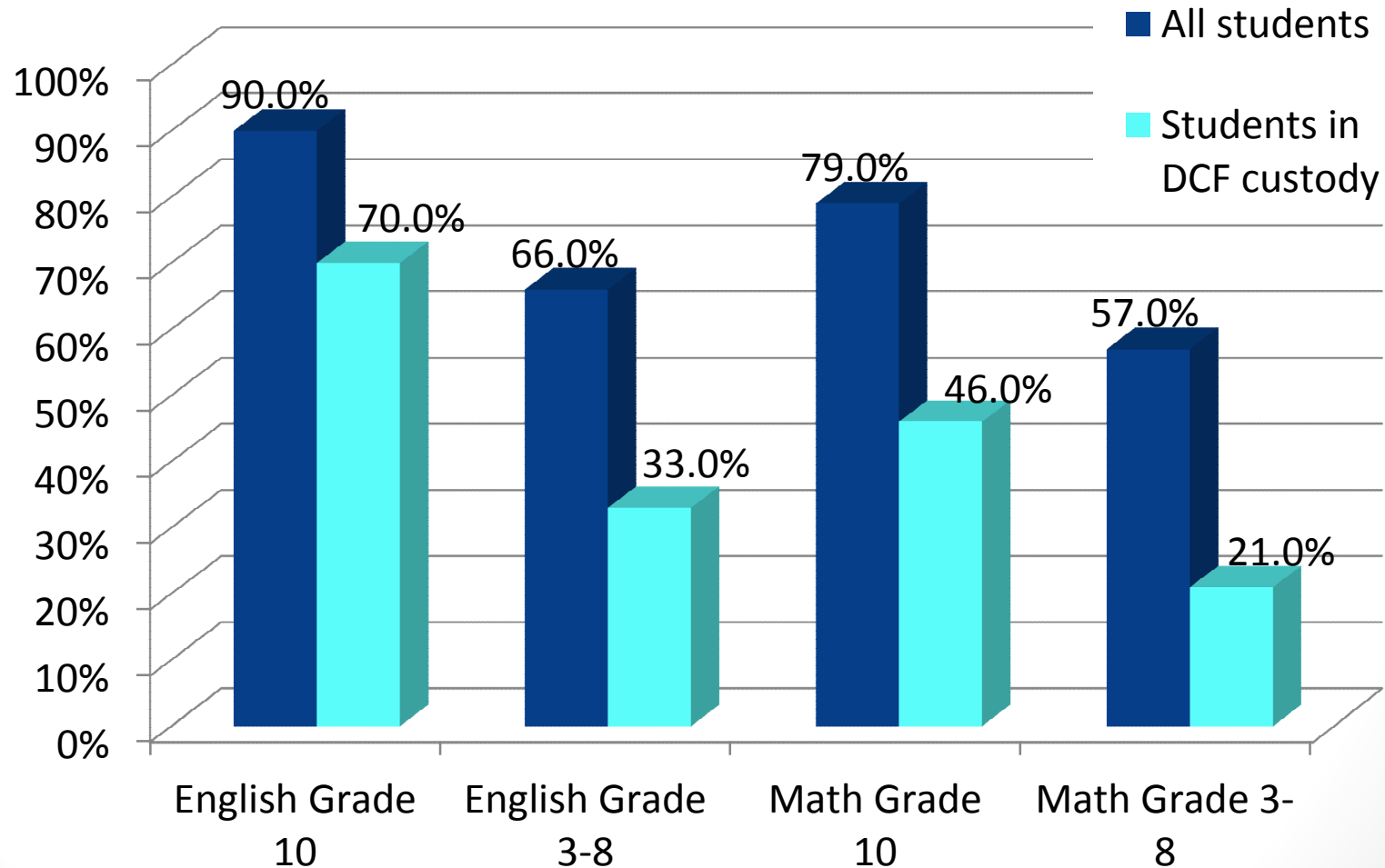
The National Data: Educational Outcomes

- It takes children 4- 6 months to recover academically from a school move.
- 17-18 year olds in foster care are 2x as likely to be suspended and 3x as likely to be expelled as other students.
- Only 2% of children aging out of foster care attain bachelor's degrees compared to 24% in the general population.

Massachusetts Data: Graduation Rates (2013)



Massachusetts Data: MCAS Testing (2013-14)



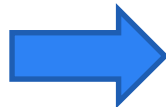
INTRODUCTION TO THE RELEVANT LAWS

The McKinney-Vento Homeless Assistance Act of 1987

- 42 U.S.C §§ 11431–11435
- Applies to public school districts in states that take federal education funding
- Purpose: To give children a stable education even when they have unstable housing
- Homeless child may stay in school of origin or enroll immediately in new school.



District A



District B



Definition of Homeless

Individuals who lack a fixed, regular, and adequate nighttime residence. It includes children who are:

- doubled up
- living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations
- living in emergency or transitional shelters
- living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- migratory children
- ~~awaiting foster care placement (i.e., STARR, emergency placements)~~

Subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.)

Additional McKinney-Vento Rights

- Formerly homeless children: Entitled to transportation through the end of the school year in which the homelessness resolves.
- School of origin includes the whole district – if the child remains homeless from one school year to the next a child may progress to the next level school in the district, including from preschool.



Fostering Connections to Success and Increasing Adoptions Act of 2008

- Child welfare law: Pub. L. 110-351, 122 Stat. 3949
- Purpose: Promote permanent families and improve education and health care for kids in foster care.
- Created obligations on DCF, not schools for school stability for youth in foster care

Fostering Connections: Educational Stability Part I

Every child's **case plan** must include assurances that:

- i. DCF decision for foster placement of child takes into account appropriateness and proximity of school placement

42 U.S.C. § 675(1)(G)(i)

Fostering Connections: Educational Stability Part II

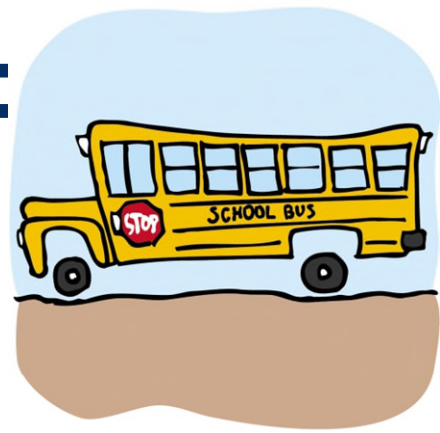
Every child's case plan must include assurances that:

- ii. once the child is placed in foster care
 - DCF has coordinated with local educational agency (LEA) to ensure child remains in school of origin

OR

- if remaining in school origin is not in the best interests of the child, DCF and LEA provide immediate enrollment with records

Fostering Connections: Transportation



Child welfare agency may use federal funds to provide reasonable travel for children to remain in their school of origin.

- Child Welfare Policy Manual § 8.1, Q&A3
- Child Welfare Policy Manual § 8.1(B)

Every Student Succeeds Act (ESSA) of 2015

- Pub. L. 114-95 (varying implementation dates)

**Elementary and Secondary Education Act (ESEA)
1965**

McKinney-Vento 1987
(Title IX protections)
school stability for homeless youth

Every Student Succeeds Act (ESSA) 2015

Title I amendments
school stability for
foster youth

McKinney-Vento amendments
school stability for
homeless youth

ESSA: Title I Protections



As of December 10, 2016:

- **Local education agencies (LEAs) and DCF must work together to ensure children in foster care can stay in school of origin (including transportation).**
 - But who (DCF or LEA) really provides/pays for transportation?

OR

- If not in best interests to remain, child must be immediately enrolled in new school.
- LEA must establish foster care point of contact (if local DCF area office does so in writing).
- DESE has point of contact for students in foster care.

ESSA: Definitions

- “Foster Care” – a 24 hour substitute care for which the state’s child welfare agency (DCF in Massachusetts) is responsible, including children and youth that DCF has placed in:
 - Foster family homes, kinship placements, pre-adoptive homes; or
 - Residential facilities, child care institutions, or group homes.

The U.S. DOE relies on the definition of foster care in Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351)

- “School of Origin” – school district where the child is attending prior to a change in the home placement.
Note: this can change within one school year if there are multiple school placements

ESSA: Regulations/Guidance

- Published ESSA federal guidance
 - U.S. Department of Education (DOE) Final Regulations
 - U.S. DOE Non-Regulatory Guidance: Ensuring Education Stability for Children in Foster Care
- Other existing state guidance
 - DCF/DESE joint memo on Fostering Connections
 - McKinney-Vento policies/procedures
 - DCF education policy
 - MA DESE & DCF Joint Guidance (Jan 2018)
 - MA DESE & DCF Dispute resolution protocol (Jan 2018)

**HOLD UP! WHICH YOUTH FALL UNDER
THE PROTECTIONS OF WHICH LAW
NOW?**

School Stability Protections for Youth

	Living arrangement	Relevant law(s)	School Stability Protections	
			Enrollment	Transportation to school of origin
Foster Care	Stable/long-tem foster placement	Title I (ESSA) & Fostering Connections	Right to remain in school of origin (if in best interest of student)	LEA and DCF must collaborate to ensure that students receive transportation. Absent an agreement between DCF and the LEA, LEA of origin must provide transportation.
	"Awaiting foster care" (i.e., placement shorter than 90 days)		OR Immediately enroll in new school	
Homeless	Formerly homeless this school year	McKinney-Vento (Title IX of ESSA)	Right to remain in school of origin (if in best interest of student)	LEA to provide transportation.
	Currently homeless		OR Immediately enroll in new school	

STRATEGIES FOR ACHIEVING SCHOOL STABILITY

Areas of Advocacy

Three big issues (in order of preference):

1. Home/foster placement stability
2. Avoid school transfer (and find transportation)
3. If transfer occurs, immediate enrollment in the new school

Home Placement Stability: Fostering Connections

- In theory...if DCF moves the child's foster placement, DCF work load has increased.
- Be part of the discussion about foster/school placement:
 - Inquire at temporary custody hearing.
 - Request to be notified before child is moved to new foster/school placement.
- File motions to challenge DCF placement decision.

Avoid School Transfer: Title I and Fostering Connections

- Title I (school law) and Fostering Connections (child welfare law) compliment each other.
- Steps to ensuring school stability:
 1. Establish child is in **foster care**.
 2. Determine whether it is in the child's **best interest** to stay in school of origin.
 - DCF makes the determination
 - School districts can dispute determination
 3. Figure out who is providing/paying for **transportation**.



Avoid School Transfer: Best Interests Determination

Current considerations in best interests determination:

- Kinship home
- Appropriateness of educational setting
- Age of child
- Preference of child
- Safety issues
- Distance/length of travel time
- Current grade (if HS, implication of MCAS and graduation)
- Academic performance
- Clinical issues
- Time of year placement is occurring
- Number of placements/changes child has had in a year
- **Who will provide transportation should NOT be a consideration.**

Avoid School Transfer: Advocacy with DCF

- Work with DCF case worker, education coordinator, or area office “point of contact” to be a part of the best interests determination.
- File a motion alleging that DCF has failed to comply with federal law and DCF policy
 - Don’t let DCF fool you about the money for transportation!
 - Legal support: Fostering Connections, DCF and DESE memorandum, DCF permanency planning policy, DCF education policy, DESE memo to schools.

Avoid School Transfer: Advocacy with LEA

- Contact local education agency (LEA)/school district contact (if identified).
- Contact MA Department of Elementary and Secondary Education (DESE) contact.
- File complaint with PQA PRS
- Help find/identify transportation.
- Does the child qualify as formerly homeless?

Avoid School Transfer: McKinney-Vento

- Some DCF-involved youth may still fit the definition of homeless!
- Formerly homeless children are entitled to transportation through the end of the school year in which the homelessness resolves.
- Resources: school homeless liaison and the DESE's Office for the Education of Homeless Children and Youth (OEHCY).

Immediate Enrollment

- If not an emergency, ensure that DCF and school plan for transfer of records.
- Schools must enroll homeless or foster children immediately without all necessary records.
- DCF must immediately enroll child.
- Resources: school liaisons, DESE points of contact, DCF point of contact, motions in Juvenile Court

Three Takeaways:

- All foster children now have right to remain in school of origin under new provisions in Title I.
- All foster children have right to immediate enrollment if moving to new school.
- Points of contact should exist at DCF area office, LEA, and at DESE.

McKinney-Vento Resources

- MA Department of Elementary and Secondary Education (DESE)
 - Office for the Education of Homeless Children and Youth:
www.doe.mass.edu/mv
 - Problem Resolution Services, 781-338-3700
or compliance@doe.mass.edu
 - Sarah Slautterback, Homeless Education State Coordinator,
781-338-6330 or sslautterback@doe.mass.edu
- Homeless liaisons in each school district: To find the district liaison, visit www.doe.mass.edu/mv, click on “Homeless Education Liaison Contact List” and search for the “Homeless Liaison”

Fostering Connections Resources

- Legal Center for Foster Care and Education
www.fostercareandeducation.org/AreasofFocus/EducationStability.aspx
- DCF Education Policy and related documents
www.clcm.org/schoolstability.html
- DCF Area Office Education Coordinators
(contracted to lead agency)
- Shirley Fan-Chan, Manager, Education Services,
Department of Children and Families
617-748 2340

ESSA Resources

- U.S. Department of Education
 - Non-Regulatory Guidance: Ensuring Education Stability for Children in Foster Care
 - Final Regulations

www2.ed.gov/policy/elsec/leg/essa/index.html
- MA Department of Elementary and Secondary Education (DESE)
 - Office of Student and Family Support website: www.doe.mass.edu/sfs/foster/
 - Problem Resolution Services, 781-338-3700 or compliance@doe.mass.edu
 - Kristen McKinnon, Foster Care Point of Contact, 781-338-6306 or kmckinnon@doe.mass.edu
- Foster care point of contacts in each school district: To find the contact, visit www.doe.mass.edu/sfs/foster/, click on the “Foster Care Point of Contact” link and search for “Foster Care Contact” in appropriate school district

Contact Information

Jessica Berry, Deputy Director

Children's Law Center of Massachusetts

781-244-1435

j.berry@clcm.org

www.clcm.org/schoolstability.html

