

February 2, 2023

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 23-15

The purpose of this All County Letter is to provide information regarding Assembly Bill 740 (2022) and the disciplinary action notification changes for students in foster care.



KIM JOHNSON
DIRECTOR

CALIFORNIA HEALTH & HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



GAVIN NEWSOM
GOVERNOR

February 2, 2023

ALL COUNTY LETTER NO. 23-15

TO: ALL COUNTY CHILD WELFARE DIRECTORS
ALL COUNTY CHILD WELFARE PROGRAM DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL FEDERALLY RECOGNIZED TRIBES
ALL FOSTER CARE PROGRAM MANAGERS
ALL FOSTER FAMILY AGENCY DIRECTORS
ALL ADOPTION REGIONAL AND FIELD OFFICES

SUBJECT: **DISCIPLINARY ACTION NOTIFICATIONS FOR STUDENTS IN FOSTER CARE**

REFERENCE: [ASSEMBLY BILL 740 \(CHAPTER 400, STATUTES OF 2022\);](#)
[EDUCATION CODE SECTIONS 47605, 47605.6, 48432.5,](#)
[48853.5, 48911, 48911.1, 48915.5, & 48918.1; WELFARE AND](#)
[INSTITUTIONS CODE SECTIONS 300, 309, 602, & 11400](#)

PURPOSE

The purpose of this All County Letter (ACL) is to provide county child welfare agencies, probation departments, and other interested parties with information regarding changes related to required school disciplinary notifications for students in foster care, including probation-supervised foster youth, prompted by [Assembly Bill \(AB\) 740 \(Chapter 400, Statutes of 2022\)](#).

For the purposes of this letter, "Foster child" means any of the following:

- (1) A child who has been removed from their home pursuant to [Section 309 of the Welfare and Institutions Code \(WIC\)](#).
- (2) A child who is the subject of a petition filed under [WIC Section 300](#) or [602](#), whether or not the child has been removed from their home.
- (3) A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law.

(4) A child who is the subject of a voluntary placement agreement, as defined in [WIC Section 11400 subdivision \(p\)](#).

Prior to the passage of [AB 740](#), the Education Code (EDC) required that a foster student's attorney be notified of any pending discretionary school expulsion or manifestation determination proceedings (in the case of a foster youth student with exceptional needs). Additionally, there was no such requirement to provide notice for other disciplinary proceedings such as mandatory expulsions, charter school discipline, involuntary school transfers, or suspensions, all of which can have serious negative impacts on students. This bill requires the written notice regarding suspension, expulsion, and other school disciplinary actions including involuntary transfer to continuation school, to be provided by a school employee to the foster child's educational rights holder, attorney, and county social worker and, in the case of an Indian child, the Indian child's tribal representative and/or social worker (or equivalent).

In the case of a foster youth student attending a charter school, these notices must inform the foster child's educational rights holder, attorney and county social worker, and in the case of an Indian child, the Indian child's tribal representative and/or social worker (or equivalent) of the right to initiate a hearing adjudicated by a neutral officer before the foster child may be involuntarily removed by the charter school. This bill also gives a foster child's educational rights holder, attorney, and county social worker and in the case of an Indian child, the Indian child's tribal representative and/or social worker (or equivalent) the same rights a parent or guardian to receive a notice of the following school disciplinary actions: suspension, expulsion, manifestation determination (for students with disabilities), involuntary transfer, and other documents and related information.

BACKGROUND

Analysis of data from the 2018-2019 academic year¹ shows students in foster care have lower academic achievement, are less likely to graduate high school or attend college, have higher rates of chronic absenteeism, and are suspended more often than their non-foster peers. In California, students in foster care are suspended at 4.3 times the statewide average rate. [Research](#)² shows a strong connection between high suspension rates, poor academic achievement, and high school dropout rates. The disproportionate suspension of students in foster care fuels a cycle of negative outcomes for these vulnerable students.

When a child is placed into the California foster care system, they are assigned a court appointed attorney to advocate on their behalf. Current law requires that a foster

¹ Data source: [DataQuest](#)

² Relationship Between School Suspension and Student Outcomes (Noltemeyer, Ward, McLoughlin, 2015)

student's attorney be notified of any pending discretionary expulsion or manifestation proceedings. However, prior to the passage of [AB 740](#) there was no such requirement for other disciplinary proceedings such as mandatory expulsions, involuntary school transfers, or suspensions, all of which can have serious negative impacts on students. Caregivers of students in foster care often lack the time, training, or background to advocate for the educational rights of students in their care. Furthermore, foster youth may cycle through multiple placements, which disrupts their education and makes advocacy within a school even less likely.

The [AB 740](#) protects the educational rights of students in foster care by requiring their court-appointed attorney to be notified of school disciplinary proceedings to ensure the student has a qualified person available to advocate on their behalf for a student to remain in a stable and appropriate school placement. In addition, this legislation extends the parental notification requirements currently in place for a student's involuntary transfer to a continuation school, suspension, or expulsion, in the case of a foster child, to the foster child's attorney and social worker, and, in the case of an Indian child, the Indian child's tribal representative and/or social worker (or equivalent). This bill also provides a foster child's attorney and social worker, and tribal social worker in the case of an Indian child, with the same rights as parents during the involuntary transfer, suspension, or expulsion process, such as requests for meetings and the ability to inspect all documents.

STATUTORY CHANGES

Prior to the passage of [AB 740](#), most disciplinary notifications were only required to include the pupil's parent or guardian. The [AB 740](#) amends the EDC as follows:

- Extends notification requirements for an involuntary removal from a public or charter school to a foster child's educational rights holder, attorney, and social worker, and, in the case of an Indian child, the Indian child's tribal representative and/or social worker (or equivalent), and extends to these persons the same rights afforded to parents during the involuntary transfer, suspension, or expulsion process, such as the ability to make requests for meetings and the ability to inspect all documents. ([EDC 47605](#))
- Extends notification requirements to county social workers and the Indian child's tribal representative and/or social worker (or equivalent) in the case of a foster child's involuntary transfer to a continuation school, suspension, or expulsion. ([EDC 47605](#))
- Requires the written notice, if the pupil is a homeless child or youth, or a foster child or youth, to be in the native language of the educational rights holder. ([EDC 47605](#))

- Extends the parental rights during the involuntary transfer, suspension, or expulsion process, such as requests for meetings and the ability to inspect all documents to a foster child's educational rights holder, attorney, and social worker, and, in the case of an Indian child, the Indian child's tribal representative and/or social worker (or equivalent). ([EDC 47605](#))
- Requires, if an individual with exceptional needs is a foster child, and the local educational agency has proposed a change of placement, the county social worker for the child, and in the case of an Indian child, the Indian child's tribal representative and/or social worker (or equivalent) is to be invited to participate in the individualized education program team meeting that makes a manifestation determination regarding behavior that led to a school disciplinary action. ([EDC 48915.5](#))
- Requires, if a decision is made to refer a student for expulsion and the pupil is a foster child, the school district to provide notice of the expulsion hearing to the pupil's county social worker, and in the case of an Indian child, the Indian child's tribal representative and/or social worker (or equivalent) at least 10 calendar days before the date of the hearing. ([EDC 48918.1](#))
- Prohibits a member of the staff of the school in which the pupil is enrolled at the time that the decision is made to be the person(s) involved in the final decision to make an involuntary transfer of a pupil to a continuation school. ([EDC 48432.5](#))

PRACTICE IMPLICATIONS

School sites can connect with their designated Local Educational Agency Foster Youth Liaison to obtain contact information for the assigned social worker or probation officer for notification purposes. It is always important for social workers and probation officers to engage with schools, youth, families, and educational rights holders to ensure the youth's educational needs are being met. It is also critical that youth understand and actively participate, as age and ability appropriate, in participating in discussions about what is in their best educational interests and exercising their educational rights.

These changes related to and regarding disciplinary action should be discussed, as appropriate, during the development of a youth's education plan, case plan, and in Child and Family Team meetings. Monthly caseworker visits, as well as other contacts with youth and their caregivers and educational rights holders provide an opportunity for the social worker or probation officer to address educational needs on an ongoing basis and demonstrate that needs were appropriately addressed in case planning and case management activities.

Also, when the child or youth is an Indian child it is important that the social worker or probation officer collaborate and consult with the tribal representative in their efforts to meet the educational needs of the child or youth.

If you have any questions or need additional guidance regarding the information in this letter, please contact the Permanency Services and Support Unit at (916) 657-1858 or by emailing FosterCareEducation@dss.ca.gov.

Sincerely,

Original Document Signed By

ANGIE SCHWARTZ
Deputy Director
Children and Family Services Division