

Youth, Rights & Justice

ATTORNEYS AT LAW

To: Senate Committee on Education, 2017 Oregon Legislative Assembly

From: Mark McKechnie, MSW, Executive Director

Date: April 18, 2017

RE: Support for SB 20 with the Dash-5 Amendments

Chair Roblin and Members of the Committee:

Youth, Rights & Justice supported HB 3075 in 2005. This legislation continues to provide school stability for children in foster care in Oregon by maintaining school residency for children who enter or change foster care placements when the juvenile court finds that it is in the child's best interests. SB 20, with the addition of the -5 amendments, will improve and strengthen protections for students in foster care in Oregon.

Faced with compelling research on the importance of and the need for school stability for children,¹ the U.S. Congress subsequently passed the Fostering Connections Act in 2010 and the Every Student Succeeds Act (ESSA) in 2015. Title I of ESSA contains provisions specific to students in foster care, also referred to as "substitute care." Children in foster care are some of the most highly mobile students served by school districts, and the risks associated with mobility are compounded by numerous other risk factors these students face.²

Children in foster care make up less than 1.5% of students in K-12 public schools on an annual basis.³ They are often unnoticed and do very poorly in school. The Washington State Institute for Public Policy found that students in foster care had a 44% rate of on-time graduation, compared to a 73% rate for all students. Foster youth graduated less often than all other groups, including low-income students, limited English proficient students, migrant students and students in special education.⁴

We are very pleased that ESSA creates a presumption that school stability is in the best interest of children in foster care in the vast majority of circumstances. We are grateful that both the Oregon Department of Education and Oregon Department of Human Services are being pro-active in implementing ESSA on a state level.

Based upon our experience over nearly 12 years since HB 3075 was enacted, we want to ensure that SB 20 builds upon the success of our current law and avoids some of the confusion and challenges we have faced and

¹ See, for example: Jacobson, L. (2001), "Moving Targets," Education Week

<http://www.edweek.org/ew/articles/2001/04/04/29mobility.h20.html>

² One study of youth who aged out of foster care in Oregon and Washington found that 65% of them experienced seven or more school changes. See: Pecora, et. al. (2005) Improving family foster care: Findings from the Northwest foster care alumni study, <https://www.casey.org/northwest-alumni-study/>

³ See 2015 Child Welfare Data Book (Oregon Department of Human Services)

<https://www.oregon.gov/DHS/CHILDREN/CHILD-ABUSE/Documents/2015-cw-data-book.pdf>, and 2014-15 Student Enrollment Report (Oregon Department of Education),

<http://www.ode.state.or.us/news/Announcements/announcement.aspx?ID=10407&TypeID=4>

⁴ Washington State Institute for Public Policy (2012), "Educational Outcomes for Foster Youth – Benchmarks"

http://www.wsipp.wa.gov/ReportFile/1115/Wsipp_Educational-Outcomes-of-Foster-Youth-Benchmarks_Full-Report.pdf

witnessed regarding implementation of the current law. Oregon has been, and should continue to be, a leader in promoting school stability for students in foster care. We have requested the Dash5 amendments to clarify some language, the rights of students, and the responsibilities of state agencies, in order to avoid confusion among the thousands of individual school personnel, DHS employees, attorneys and judges who will be involved in implementing and interpreting this statute going forward. The Dash 5 amendments provide continuing school stability for the children for whom the court has made a best interest finding under current law because their current school district of residence will become their school district of origin under these amendments.

The proposed changes amend Sections 17, 18 and 19 of the Dash 4 amendments developed by ODE and DHS, which apply specifically to children in foster care. The changes include:

- Clarifying that children impacted by this section are in the custody of either DHS (“the department”) or a tribal child welfare agency.
- Removing the modifier “public” from “school of origin” to make the state statute more consistent with ESSA and state statutes and to avoid confusion over whether a district-contracted program that is not run by a school district can be the “school of origin” for a student in foster care, including alternative school programs and placements selected by the Individualized Education Program (IEP) Team under the Individuals with Disabilities Education Act, as intended by ESSA⁵
- Clarifying that the ability to remain in the school of origin and district of origin applies to children and youth in foster care between the ages of 4 and 21⁶ and that this provision does not end at age 18 for students who have not completed a high school diploma and/or students who may be eligible for special education services through the school year when they turn 21.
- Clarifying that transportation to the school or district of origin for students in foster care is paid for with public funds. While DHS, districts and ODE may collaborate to determine the most cost-effective transportation plan for individual students, and plans may draw upon different sources of state and federal funding to implement, it needs to be clear that publicly-funded transportation is often integral to facilitate each student’s attendance at his or her school/district of origin. This type of collaboration, including inter-agency agreements and memoranda of understanding (MOU) already occurs in Oregon in order to implement the provisions in HB 3075.
- Other changes included are more technical in nature to support the changes listed above or to make the language more consistent with other state and federal statutes.

Youth, Rights & Justice supports school stability for children and young people in Oregon’s foster care system and urges the committee’s support of SB 20 and the dash 5 amendments.

⁵ School districts must make available a range of placement options to meet the needs of children with disabilities for special education and related services, including regular classes, special classes, separate schools, home instruction and instruction in hospitals and institutions. See 34 C.F.R. Section 200.103 (a)(1) and Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care, U.S. Dept. of Education and U.S. Dept. of Health and Human Services (June 23, 2016).

⁶ See ORS 419B.328 (stating individuals can remain in foster care until they reach 21 years of age).