



Special Education Screening for All Students Entering Care

Executive Summary

Children have a right to education.¹ However, children in foster care struggle to fully benefit from this fundamental right. In Arizona, children who experience foster care have the lowest on-time graduation of any demographic, including homeless children.² Specifically, fewer than half (41.2%) of children in foster care who were members of the class of 2022 graduated within the designated four years of high school.³

Persistent trauma can play an outsized role in students' success. Research shows that children who experience the trauma of neglect or emotional, psychological, physical, or sexual abuse experience numerous negative outcomes. These can range from biological and physical to psychological and social in nature. Each of these outcomes can have a detrimental impact on student achievement.⁴

Not surprisingly, negative outcomes experienced by victims of abuse and neglect are correlated to a high incidence of special education needs. Children in care require special educational resources at rates that sometimes far exceed their peers.⁵ To help mitigate the long-term, educational impact of trauma, state child protection and education agencies, along with local schools, can collaborate to timely screen for and provide special educational services.

Key Takeaways

- Students in foster care experience an educational disability at about twice the rate of low-income and general population students.⁶

¹ Tim Keller, *Asserting, Arguing, and Appealing the Constitutional Rights of Children in Foster Care: A Lawyer's Field Guide*, Center for the Rights of Abused Children (2023).

² Arizona Department of Education, *AZ School Report Cards: Four Year Graduation Rate*, (Accessed 6/1/2023), <https://azreportcards.azed.gov/state-reports>.

³ *Id.*

⁴ Healey CV, Fisher PA. *Children in Foster Care and the Development of Favorable Outcomes*, *Child Youth Serv Rev.* 2011 Oct;33(10):1822-1830, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3188952/>

⁵ Arizona Department of Education, *AZ School Report Cards: Four Year Graduation Rate*, (Accessed 6/1/2023), <https://azreportcards.azed.gov/state-reports>.

@ Appendix B, Table 1, at 39.

⁶ Vanessa X. Barrat, BethAnn Berliner, Natalie J. Felida, *Arizona's Invisible Achievement Gap: Education Outcomes of Students in Foster Care in State's Public Schools*, WestEd (San Francisco, 2015) ii, <https://foster-ed.org/wp-content/uploads/2017/03/Arizonas-Invisible-Achievement-Gap-2015.pdf>.



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- Among students with disabilities, students in foster care were over four times more likely to be classified with an emotional disturbance than other students statewide.⁷
- The three most common disabilities identified among children in care were: specific learning disability (30.6%), emotional disturbance (25.7%), and intellectual disability (9.9%).

Proposed Reform

In 2021, Georgia passed legislation explicitly recognizing the connection between trauma and educational outcomes. Finding “that foster care students are particularly vulnerable to exposure to traumatic events and situations” and that “exposure to trauma can be exacerbated by changing schools, particularly when the student may be eligible for special education and related services,” the legislature passed House Bill 855 (2021).⁸ HB 855 requires schools to “immediately and deliberately” screen students entering foster care for special educational needs upon enrollment at a new school to “determine whether exposure to trauma has had or is likely to have an adverse impact on the foster care student's educational performance, including both academics and classroom behavior.”⁹

Arizona should enact legislation that similarly accounts for the impact of trauma on a child’s education and screen children in care not only when a child changes schools, but also when they enter care. The Department of Child Safety (DCS) should notify Arizona Department of Education (ADE) and the child’s district or charter school (also known as Local Education Agencies or LEAs) when a child enters care. LEAs would be required to screen all children for special education services upon entering care and upon enrollment in a new school. The bill should also ensure that a child's lawyer or a special education advocate is present for the screening.

Critical elements that should be included in Arizona legislation:

- Require DCS to send written notification to the local school and ADE informing both entities that a child has entered care and request a screening for special educational needs and services.
- Require ADE and DCS to co-develop notification and screening procedures for school-age children upon entering foster care and upon transferring schools.
- Require immediate screening by the local school. The screening must occur prior to, or in conjunction with the best interest determination.

⁷ Vanessa X. Barrat, BethAnn Berliner, Natalie J. Felida, *Arizona’s Invisible Achievement Gap: Education Outcomes of Students in Foster Care in State’s Public Schools*, WestEd (San Francisco, 2015) ii, <https://foster-ed.org/wp-content/uploads/2017/03/Arizonas-Invisible-Achievement-Gap-2015.pdf>.

⁸ Georgia House Bill 855 (effective July 1, 2021) [C:\pdf\195304.wpd \(gadoe.org\)](C:\pdf\195304.wpd)

⁹ Georgia House Bill 855 (effective July 1, 2021) [C:\pdf\195304.wpd \(gadoe.org\)](C:\pdf\195304.wpd)



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- Require ADE and DCS to develop a trauma-informed screening process to determine potential eligibility for special education services and interventions.
- Mandate notice to the child's attorney of all special education meetings.
- Require the presence of the child's attorney or a special education advocate at screenings.
- For children who already have an individualized education plan or a Section 504 plan, require a review and adjustment to reflect the impact of trauma. No additional screening is necessary.

Background

Identifying Children in Care with a Disability

Current Arizona law recognizes that foster children have a right to go to a school and receive an education that fits the child's individual needs.¹⁰ The federal *Individuals with Disabilities Education Act* (IDEA) seeks:

"...to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; ... to ensure that the rights of children with disabilities and parents of such children are protected; and ... to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities."¹¹

States must comply with "child find" efforts to satisfy federal law. This means identifying, finding, and evaluating all children needing special education and related services and ensuring they receive the services they need.¹² AZ Find is the Arizona child find program.¹³

Screening for Special Educational Needs

Current screening procedures include vision and hearing tests and consideration of the student's cognitive, academic, communication, motor, social or behavioral, and adaptive development.¹⁴ While trauma when students experience abuse and neglect

¹⁰ Ariz. Rev. Stat. Ann. § 8-529(A)(9).

¹¹ 20 U.S.C.A. § 1400(d).

¹² 20 U.S.C.A. § 1412(a)(3)(A).

¹³ <https://www.azed.gov/specialeducation/az-find>

¹⁴ AAC R7-2-401.D Child Identification and Referral.

<https://www.azed.gov/sites/default/files/2015/10/Child%20Find%20Policies%20and%20Procedures.p>



can manifest in one of these screening foci, current law does not address the debilitating trauma experienced by children who enter care. When the screening raises concerns about necessary special education services, parents are notified within ten school days. The student is then referred for a full and individual evaluation or other services.¹⁵

Arizona policy requires DCS to "ensure that children in out-of-home care are referred to a Local Education Agency (LEA) to be assessed for special educational services, when indicated, and other educational needs."¹⁶ Our proposal would ensure that no child slips through the cracks by assessing every student upon entry into care.

Special Education Screening is not an Evaluation

Federal law permits, "either a parent of a child, or a State educational agency, other State agency, or local educational agency" to "initiate a request for an initial evaluation to determine if the child is a child with a disability."¹⁷ In finding children in need of services, schools are not permitted to "rely solely on parents to request special education services."¹⁸ Under IDEA, public schools must identify, locate, and evaluate students who may need special education services.¹⁹

The process of finding students who need, and connecting them with, special education services consists of a screening, a referral, and a full evaluation.²⁰ In Arizona's child find efforts, screening is an important step in identifying students who may need special educational support or services. However, screenings do not include a comprehensive evaluation.²¹ If a screening identifies students needing special education services and pre-referral interventions seem unlikely to help the student progress, then the student is referred for a full, individual evaluation.²²

State law requires that, "[b]efore a child who is suspected of having a disability is placed in a special education program, an evaluation shall be made in accordance with the

[df?id=5616f336aadebe10bc57459c; https://www.azed.gov/sites/default/files/2017/11/R7-2-401%20As%20Adopted%20by%20the%20Board_Engrossed.pdf?id=5a1353713217e1025434e49e](https://www.azed.gov/sites/default/files/2017/11/R7-2-401%20As%20Adopted%20by%20the%20Board_Engrossed.pdf?id=5a1353713217e1025434e49e)

¹⁵ *Id.*

¹⁶ DCS Prog. Policy, Ch. 3 §8.5.

https://extranet.azdcs.gov/DCSPolicy/Content/Program%20Policy/03%20Case%20Planning%20and%20Services/08%20Education%20and%20Development%20Services/CH3_S08_5%20Special%20Ed%20and%20Early%20Intervention.htm?Highlight=special%20education .

¹⁷ 20 U.S.C.A. § 1414(a)(1)(B)

¹⁸ Ariz. Dep. of Education, *Ariz. Technical Assistance System: Evaluation Process*, (updated January 2021), 3, <https://www.azed.gov/sites/default/files/2021/02/AZ%20TAS%20eval%202021%20final.pdf>.

¹⁹ *Id.*

²⁰ *Id.* at 3-4

²¹ *Id.* at 4.

²² *Id.*



individuals with disabilities education act ... to determine whether a child is a child with a disability. ... This evaluation shall be conducted within sixty days after receiving parental consent."²³ Arizona's Administrative Code defines "full and individual evaluation to mean "procedures ... to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs."²⁴ This process involves a multidisciplinary team including parents, teachers, administrators, and, if appropriate, the student. This team may make an eligibility determination - that is, the student has a qualifying disability, the disability impacts learning, and specially designed instruction is necessary.²⁵

In contrast, the evaluation process is much more comprehensive than the screening. It uses various assessment tools tailored to assess specific educational needs to identify all the student's needed services.²⁶

Anticipated Impact

The Center projects that approximately 23,000 children will be served by Arizona's child welfare system in 2024, including approximately 8,000 youth who will enter care over the course of a year. Under this proposal, each of these youth who is of school age will receive a trauma-informed screening for special education services.

At the end of state fiscal year 2022, more than 7,800 school-age (four years old and up) children were in out-of-home care. Based on research indicating that 23% of foster youth have a disability, approximately 1,800 students in public schools would be categorized as children in foster care with a disability.

²³ Ariz. Rev. Stat. Ann. § 15-766.

²⁴ Ariz. Admin. Code R7-2-401 (B)(8).

²⁵ Ariz. Dep. of Education, *Evaluation Process*, supra note 19, at 6.

²⁶ *Id.* at 6-