



*EDUCATIONAL CONSIDERATIONS:
PREVENTION, PARTNERSHIP, AND
PRACTICE*

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Learning Objectives

By the end of this session, participants will be able to:

- Explain the federal legal framework governing educational stability for children in foster care, including Title IV-E and ESSA.
- Differentiate between Section 504 and IDEA protections and identify when referral, evaluation, or surrogate parent appointment is required.
- Explain disciplinary protections for students in foster care.
- Advocate effectively in court and in educational contexts to ensure educational issues are addressed.



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Childhood Abuse and Neglect

Collateral Risks

- Impaired cognitive and academic functioning
- Memory difficulties
- Poor social skills
- Diminished language development
- Increased likelihood for mental health diagnoses

(Bartlett & Rushovich, 2018; Forkey et al., 2016; Felitti et al., 1998; McLaughlin, 2012)

<https://developingchild.harvard.edu/guide/a-guide-to-toxic-stress/>



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Childhood Abuse and Neglect

Collateral Risks



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Risks Prior to Care: Educational Context

Performance on state achievement tests indicated that the largest deficits in reading and math achievement are evident in the months immediately preceding removal from the home (Berger, Cancian, Han, Noyes, & Rios-Salas, 2015).

The precursors for removal are associated with depressed achievement: Childhood experience of abuse and neglect, high mobility and family instability, domestic violence, and poverty, which are prevalent for child welfare-involved youth, are associated with low achievement (Berger et al., 2015; Herbers et al., 2012; Romano, Babchishin, Marquis, & Fréchette, 2015).



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Placement Disruption

School Achievement: Placement changes have a greater negative effect on academic growth than school moves do, even when school curriculum differs.

But the consequences on achievement are most significant when these disruptions co-occur.

- Placement disruption:
 - Average loss of 2.5 percentile points in reading
- Co-occurring placement and school disruption:
 - 3.7 percentile points in reading



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Tennessee Supreme Court Rules 13 & 56

Stability Matters

- On average, a child who stays in a new foster placement at least four and a half months after placement move will make up the 2.5 percentile point loss noted in the previous slide. Provided that the child didn't also change schools when changing placement, the damage to his achievement can be minimized (Clemmons, Klopfenstein, Lalonde and Tis, 2018).



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Decreasing Risk through School Engagement

“Stronger school attachments, such as improved teacher-student interactions and participation in school-sponsored activities, not only decrease the likelihood of delinquency, but also lead to greater commitment to school-based goals.” Hoffman et al., 2016



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Decreasing Risk through School Engagement

- Research has established that graduating from high school significantly reduces crime among adolescent males. (Lochner, 1999)
- Subsequently earning one's high school diploma, after dropping out, reduces one's future rate of property offending and provides a between individual reduction in violence. (Abeling-Judge, 2019)



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Youth Well-Being: School Stability is Dropout Prevention

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School Stability

- Each school change reduces the chance a student in foster care will graduate with their peers. After 3 school moves, the likelihood of high school graduation is dramatically lower.
- Data from studies indicate that as the number of school transfers increase, the expected on-time graduation rate decreases, likelihood for dropping out increases, and math and reading achievement decrease.



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Drop Out Statistics

Dropping out of high school often leads to poverty, health concerns, increased risk of incarceration or criminal activity, and other poor outcomes.

- A higher proportion of dropouts than high school graduates is unemployed and incarcerated and dropouts have poorer health, even controlling for income and other sociodemographic disparities associated with dropping out (National Institutes of Health, 2016).

Students who drop out of high school earn less over their lifetimes:

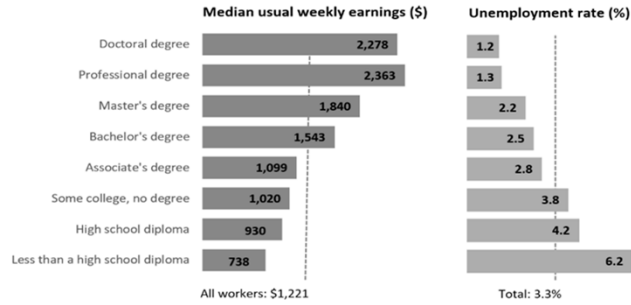
- The average salary in 2017 for adult dropouts ranges between \$20,000 and \$25,000 compared to \$38,150 for high school graduates and \$67,760 for graduates with a four-year degree.
- Lifetime Impact: Over a lifetime, high school dropouts are estimated to earn over \$260,000 less than their peers who earned a diploma (National Center on Educational Statistics, 2024).



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U.S. Bureau of Labor Statistics

Earnings and Unemployment Rates by Educational Attainment, 2024



Note: Data are for persons age 25 and over. Earnings are for full-time wage and salary workers.
Source: U.S. Bureau of Labor Statistics, Current Population Survey.

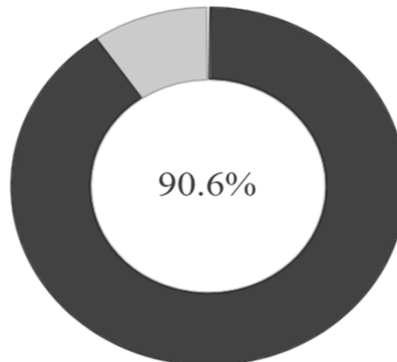
Data Table
These education categories reflect only the highest level of educational attainment. They do not take into account completion of training programs in the form of apprenticeships and other on-the-job training, which may also influence earnings and unemployment rates. For more information on training, see: <https://www.bls.gov/emo/documentation/education-training-system.htm>.
BLS has some data on the [employment status](#) of the civilian noninstitutional population 25 years and over by educational attainment, sex, race, and Hispanic origin online.



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Tennessee Report Card

Tennessee On Time Graduation Rate 2023-2024

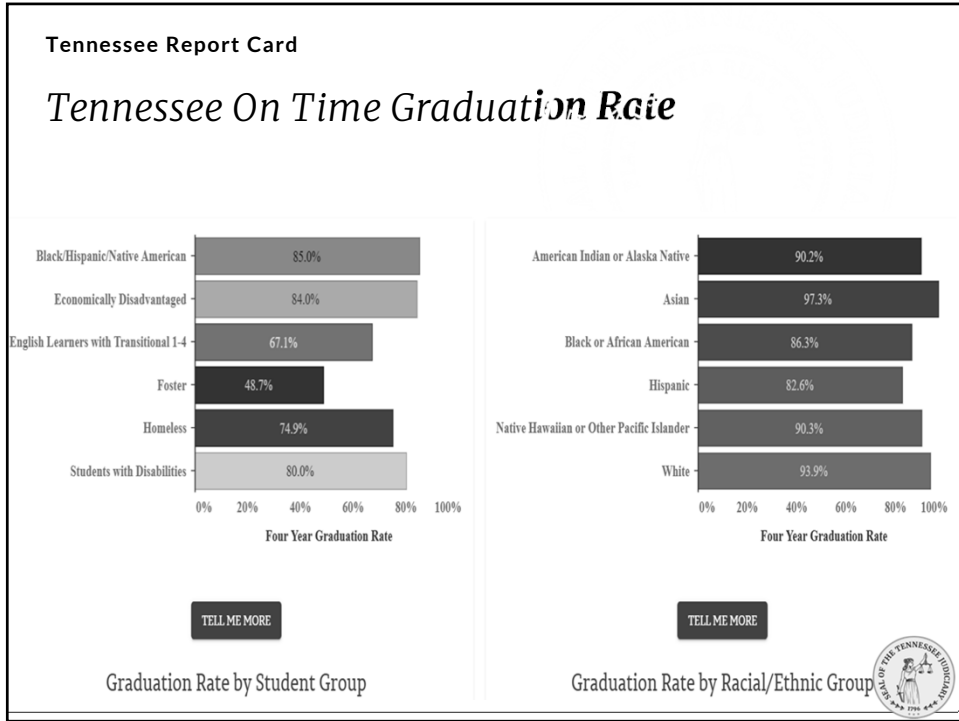


TELL ME MORE

Graduation Rate



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What is the Graduation Rate in Your Community?

- Go to the TN Report Card and enter your school district name


- From "Performance Indicators" drop down menu, select "State Graduation Rate"

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EVERY TRANSITION COUNTS FOR STUDENTS IN FOSTER CARE


SCHOOL STABILITY

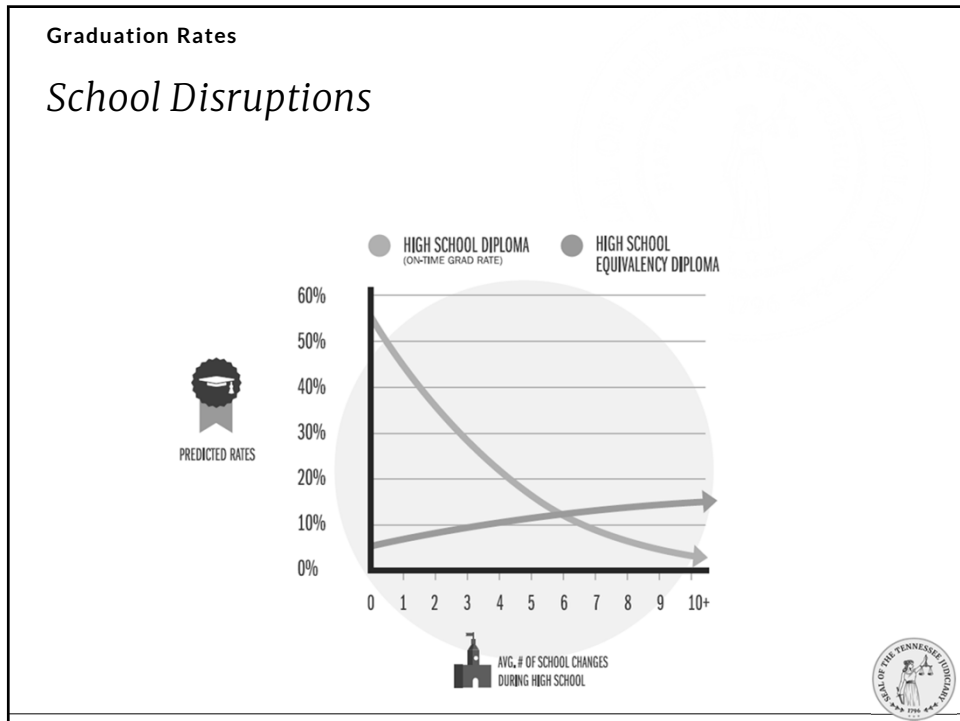
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**SEAMLESS
TRANSITIONS**

UNC
UNIVERSITY OF NORTHERN COLORADO

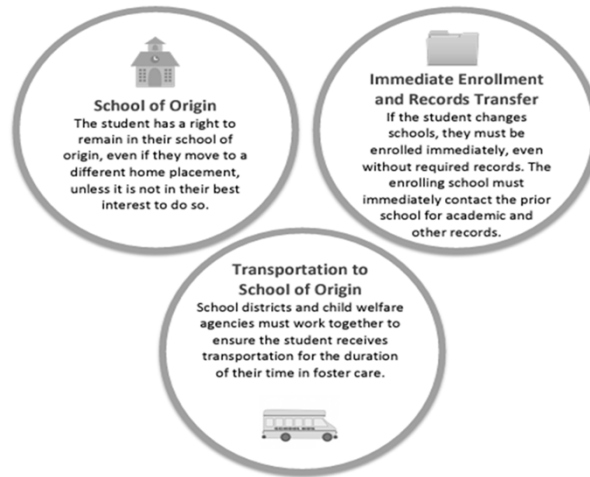


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ESSA

The Every Student Succeeds Act

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Education and Child Welfare

Considerations for the Court

- Federal child welfare law under Title IV-E (42 USC 675 (1)(g)) provides that the permanency plan spell out efforts the agency is making to maintain educational stability while the child is in care.
- Federal education law under The Every Student Succeeds Act requires that students in foster care remain in their school of origin when it is in their best interests.
- If a child/student comes into care, that child/student does not automatically change schools.
- If a student moves from placement to placement while in care, that student won't automatically change schools.
- In either case, the school of origin (where the student has most recently attended) and DCS, along with others who know the child, must have a meeting to make a BEST INTEREST DETERMINATION. Transportation costs can not be a factor that is weighed in determining best interest.



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FCRB, Periodic Progress Review and Permanency Hearings

- Do you see educational stability addressed on the permanency plan? Is the child changing placement?
- What was the outcome of the BEST INTEREST DETERMINATION?
- Did the child or youth maintain stability in their school of origin? Why or why not?



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Special Education Considerations: Foster Care

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Prevalence: Special Education

- Children and youth in foster care are 2.5 to 3.5 times more likely to receive special education services than their peers. Burley & Helpert, 2001; Castrechini, 2009; Smithgall et al., 2004; Chow & Mason et al (Pending!).



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Special Education: Section 504 and IDEA

Section 504

- Civil rights law that prohibits discrimination on the basis of disability in programs that receive federal funding
- Eligibility: Physical or mental impairment that substantially limits a major life activity (concentrating, thinking, speaking, etc.)

IDEA:

- Education act that provides federal financial assistance to state educational agencies that opt into federal special education requirements as identified under the statute
- Eligibility (part B): Children ages 3 to 22 (or graduation, whichever comes first) who are determined to be eligible within one or more of 13 specific disability categories AND who need special education and related services. Part C: Infants and toddlers with eligibility.



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The Individuals with Disabilities Education Act (IDEA)

Across Infancy, Childhood and Adolescence for Individuals with Disabilities

The Individuals with Disabilities Education Act, or IDEA, is a federal special education law and grant program.

- It gives rights and protections to individuals with disability or delay from birth through high school graduation or the end of the school year the student turns 22 (whichever happens first).



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Disability Support Across Childhood

Birth-2 (Part C):

- Screening for disability required. DCS will refer to the Tennessee Early Intervention Services (TEIS) for substantiated cases involving children under 3.
- Services for babies and toddlers with disability.

Preschool, 3-5 (Part B)

- Services for children with disability (Can now be under TEIS with the **Extended Option** until kindergarten start)

School Age (Part B)

- Special Education or Disability Related Accommodations



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SL1 Child Abuse Prevention and Treatment Act (CAPTA)

Tennessee Early Intervention, Birth through age 2

- To meet the guidelines of Child Abuse Prevention and Treatment Act (CAPTA), referrals must be made to Tennessee Early Intervention Services (TEIS) for any child under age three (3) whose CPS investigation results in an indicated classification.
- If the TEIS screening indicates the child is suspected of having a disability, TEIS will undertake a special education evaluation pursuant to the Individuals with Disabilities Education Act (IDEA), Part C.



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The Individuals With Disabilities Education Act (IDEA) - Part B

- Identification and Evaluation through **Child Find** **SL1**
- Individualized Education Program (IEP)
- Free Appropriate Public Education (FAPE)
- Education in the Least Restrictive Environment (LRE)
- Parent and Teacher Participation
- Procedural Safeguards

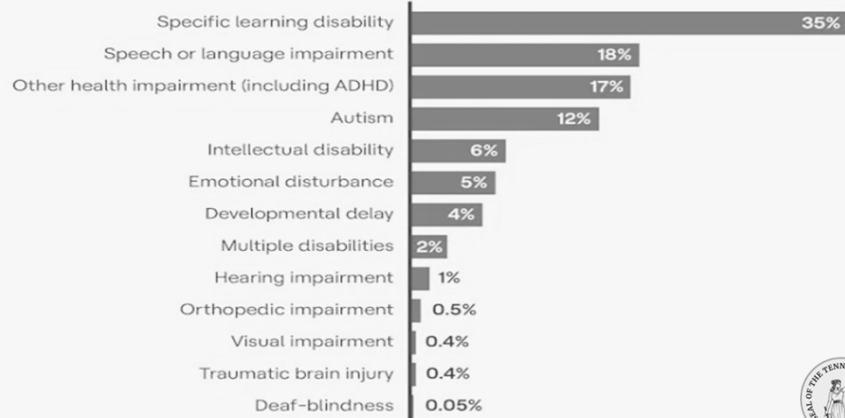


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Special Education Eligibility

Eligibility by Type

Disability categories for school-age kids with IEPs



Source: U.S. Department of Education (2023)

Percentages rounded



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Parental Consent under IDEA

Written parental consent is required before:

- Initial evaluation
- First-time special education services
- Reevaluations
- Using public benefits/insurance (e.g., Medicaid)
- Releasing personally identifiable records

Consent must be:

- Voluntary
- Informed
- Revocable at any time

❖ If parents refuse to consent or cannot be located in order to consent for initial service provision, the school cannot force services through due process.

- Can file due process to force issue if no consent for initial evaluation, but no requirement to do so.



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Who is a Parent under IDEA?

34 CFR 300.30 Parent.

(a) Parent means—

- (1) A biological or adoptive parent of a child;
- (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
- (3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- (5) A surrogate parent who has been appointed in accordance with §300.519 or section 639(a)(5) of the Act.



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Surrogate Parent under IDEA

In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements in paragraphs (d)(2)(i) and (e) of this section.

(d) Criteria for selection of surrogate parents.

- (1) The public agency may select a surrogate parent in any way permitted under State law.
- (2) Public agencies must ensure that a person selected as a surrogate parent:
 - (i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;
 - (ii) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and
 - (iii) Has knowledge and skills that ensure adequate representation of the child.



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Evaluation under IDEA

Evaluation should occur within 60 calendar days of receiving parental consent 34 C.F.R. 300.301(c)(1)(i)

- Every area of suspected disability.
- Different eligibility categories under the IDEA require different criteria. Intellectual functioning and academic functioning are common.
- ❖ Question for eligibility: Does the child have a disability that meets the eligibility criteria in Tennessee?



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Eligibility under IDEA

Team decides if the child is eligible.

Team includes parent and child, if parent agrees.

Also includes:

- Regular educator,
- Special educator,
- School psychologist,
- Local Education Agency Chair, and
- Others with specialized knowledge of the child.

Parent can request an Independent Educational Evaluation at public expense if parent disagrees with school's evaluation. LEA Chair can ask why.

Parent must consent for services.



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Discipline Generally

One large study indicated children with foster care experience are 6 times more likely to demonstrate problem behavior (Turney & Wilderman, 2016).

All students have rights when they are disciplined.

- Suspended for more than 10 days at a time or expelled - TN Statute provides a right to appeal within 5 days after receipt of notice. TCA § 49-6-3401
- However, students with or suspected of having disabilities have additional protections under IDEA or 504:
 - Formal review of their behavior before long-term suspensions or expulsions.



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Discipline under IDEA

For some students with disabilities, problem behavior may be caused by their disability. SL1

Students cannot be subject to long term suspension or expulsion for behavior that is caused by their disability.



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Discipline under the IDEA

Manifestation Determination Review

A manifestation determination is a meeting in which parents of a student with an IEP or 504 Plan and school staff review relevant information about the child and answer two questions:

1. Was the behavior caused by, or does it have a direct and substantial relationship to the child's disability?
2. Was the behavior the direct result of the school's failure to implement the child's IEP?

If the answer is "yes" to **either** of the above questions, then the behavior is determined to be a manifestation of the child's disability.



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Discipline under the IDEA

Manifestation Determination Review

If team consensus is the behavior was a **Manifestation**:

- Suspension over ten days or expulsion revoked.
 - No change of placement unless parent and school agree.
 - IEP team must create an FBA/BIP to support child.

If team says **No Manifestation**:

- Student may be disciplined.
- Student must receive educational services.
- Student may receive behavior support, as appropriate.



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Discipline under Section 504 of the Rehabilitation Act

- Section 504: An evaluation is required prior to an educational change of placement (i.e.: disciplinary change of placement). The required evaluation functions as a manifestation determination review under Section 504.
- The point is antidiscrimination, and the US DOE has said that the MDR process detailed under IDEA meets the evaluation requirements of 504.

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Special Circumstances

- School staff may place a student in an alternative education setting for up to 45 school days, even if the behavior is a manifestation of the disability, if the behavior was related to:
 - Possession of a dangerous weapon at school or during a school event;
 - Possession, use, or sale of an illicit drug or controlled substance; or
 - Serious bodily injury to others.



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The Individuals with Disabilities Education Act

Dispute Resolution

- Mediation – Voluntary, confidential process facilitated by a neutral mediator; available at no cost to parents.
- State Complaint – Written complaint filed with the state education agency alleging IDEA violations; investigation and written decision required.
- Resolution Session – Mandatory meeting after a due process complaint (unless waived) to attempt early settlement.
- Due Process Complaint – Formal legal complaint triggering a due process hearing before an administrative law judge. Appeals go to federal court.



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Using Supports

Truancy Prevention and Reduction

Shift the Lens:

- Identify Root Causes – Disability, mental health, bullying, housing instability, transportation barriers.
- Trigger Legal Protections – Request IDEA evaluation (Child Find) or Section 504 plan; seek accommodations (modified schedule, counseling, transportation, BIP).
- Use School-Based Interventions First – MTSS/RTI, attendance teams, restorative practices, school social work.
- Enforce Stability Rights – School of origin and transportation for youth in foster care or unstable housing.
- Engage Caregivers Early – Connect families to supports and clarify expectations.
- Reframe in Court (if necessary) – Present unmet educational needs; argue for services, not punishment.



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TCA § 49-6-3009

Truancy Prevention and Reduction

State law requires schools to use a tiered progressive truancy intervention plan after five unexcused absences.

Tier I – Early Response

- Parent notice and conference
- Identify barriers
- Attendance improvement plan

Tier II – Targeted Supports

- Attendance team referral
- Counseling, mentoring, community resources
- Monitor progress

Tier III – Intensive Plan

- Formal written intervention plan
- Increased supports and supervision
- Document efforts
- Court Referral = Last Resort



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TCA § 49-10-1304

Truancy Prevention and Reduction

- Although MDRs are traditionally associated with disciplinary removals, Tennessee law extends the protection to juvenile petitions, which includes truancy.
- If a student with an IEP accumulates unexcused absences, the district must hold MDR before filing a truancy petition.
- If the absences are linked to disability or failure to implement the IEP (a manifestation):
 - Then the appropriate response is educational correction and support, not court referral.


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