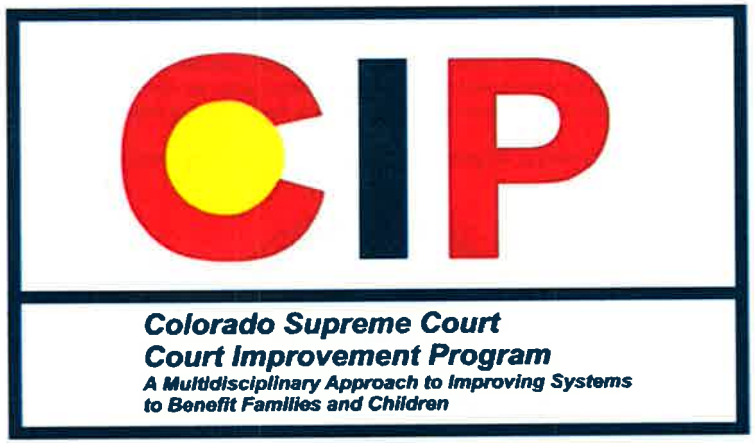
COURT IMPROVEMENT PROGRAM TRAINING

Educational Law in the Child Welfare System

A Multi-disciplinary Curriculum for Improvement of the Child Welfare System



Educational Law in the Child Welfare System:

A Multi-Disciplinary Curriculum for Improvement of the Child Welfare System

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Colorado Court Improvement Program Training Wheel Curricula

It is not surprising that the diverse culture of the child welfare system creates knowledge and experience gaps for child welfare participants and practitioners alike, which leads to the question, "How can individuals who are involved in the child welfare system know about that system as a whole as well as the roles of others involved in it?"

The Colorado Court Improvement Program (CIP) is in the process of designing training to answer this very question. The Training Wheel Curricula is made up of nine separate modules, each representing a discipline or service area associated with the Child Welfare process. The purpose of each module is to assist multi-disciplinary Best Practice Court Teams in building a foundation of core knowledge within each discipline or service area. While each discipline or service area may have a required professional knowledge and skill base that exceeds core knowledge, it is core knowledge in all areas that creates an understanding of the child welfare process as a whole.

The *Educational Law* curriculum was authored by Jeffrey C. Koy, Kris Bomgaars, and Kristin Weissinger at the Rocky Mountain Children's Law Center, http://rockymountainchildrenslawcenter.org/

For questions about the *Educational Law* curriculum or about other Training Wheel curriculum, please contact Kay Yorty, Training Coordinator for the Colorado Court Improvement Program at margaret.yorty@judicial.state.co.us

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EDUCATION IN THE CHILD WELFARE SYSTEM LEARNING OBJECTIVES AND COMPETENCIES

Time	8 hour training day; 6.5 hours of training content
Purpose	To provide stakeholders with an understanding of the unique educational needs and rights of children touched by the child welfare system and to empower them with an ability to promote positive school experiences as an integral part of the safety, permanency, and well being of children and youth.

Competencies/
Learning Objectives

Participants will demonstrate an understanding of the following issues regarding education in the child welfare system:

- The procedural rights of children, parents, and educational surrogates;
- The substantive education rights under state and federal law, regulation, and policy;
- The importance of educational advocacy and/or decision-making for children in care;
- The importance of access for children in foster care to the same resources available to all students;
- The importance of the timely transfer of records from one school to another;
- The importance of not imposing negative consequences on a child due to absences caused by a change of placement, attendance at a court hearing, or a court-ordered activity;
- The aspects of the educational experience and the child's relationship with a school that promote educational stability and success;
- The responsibility of the Departments of Human Services and the Department of Education in regard to transfer of records, schools of origin placement, waiver of fee, postponement of record requirements and the required timely re-entry into school;

- The responsibility of the School to provide liaison services, to provide appropriate educational testing, to appoint a person to hold education rights, to provide procedural rights for disagreements with schools, and to maintain confidentiality;

- Educational rights including both special education and general education rights.

Materials: All materials, including this curriculum, are provided in electronic and printed format

Handout 1:	AGENDA
Handout 2:	EDUCATION LAW QUIZ
Handout 3:	EDUCATION LAW POWERPOINT
Handout 4:	THE EVERYDAY GUIDE TO SPECIAL EDUCATION LAW
Handout 5:	CHILD WELFARE CASE SCENARIO
Handout 6A-E:	CHECKLIST ACTIVITY GROUP EXERCISES

Expectations of Trainers: The ideal trainer is an attorney, such as a guardian ad litem or education law attorney, or an educational advocate who is well versed in education law. Most laws affecting children's educational rights are federal. Therefore, an out-of-state attorney specializing in education law could also be appropriate.

Facilitators for the small group break-out sessions may come from any of the professions represented in the training. Though each of the topics pertains to different areas of education law, most participants are not attorneys and different professionals could easily facilitate the group work. Facilitators must be willing to familiarize themselves with his/her assigned topic area prior to the training.

Preparation: The trainer must thoroughly review this curriculum and the attached materials. Facilitators must review their specific topics.

Facility: The ideal facility is a public meeting area (government office, courthouse, library) that is large enough to accommodate all participants comfortably in one room. The primary meeting room will need sound equipment and space to display a PowerPoint presentation. The facility will also require space to break into smaller groups (either in the same large room or preferably in smaller separate rooms).

Advanced Reading: Hypothetical Child Welfare Case Scenario and Checklist Activity Case Examples

WELCOME AND INTRODUCTIONS

Time: 15 Minutes

Description of Activity:

The Welcome and Introductions portion of the training is designed to welcome participants and discuss the purpose of the training. The trainer and facilitators will introduce themselves and provide time for participants to introduce themselves to other participants. The trainer will walk participants through the agenda for the training and provide general facility information.

Supplies Needed:

- Flip Chart prepared with the following:
  - Name
  - Role/Why You Are Here
  - Experience in the Child Welfare System
- Handout 1: Agenda

Trainer Instructions:

Welcome participants to the Education in the Child Welfare System training and thank them for attending. Briefly introduce yourself and provide a short overview of your prior experience.

Agenda: Introduce the agenda as Handout 1. Point out the main activities for the day: An education quiz/learning tool to test your base knowledge in education law; an education law presentation to provide an overview of the educational rights for children, particularly those in foster care; break; and the hypothetical child welfare case scenarios.

Provide Facility Information: Explain that this room is the home base for large group meetings but participants will divide into smaller rooms for break-out groups later. Instruct participants where the bathrooms are, and address any parking issues or other housekeeping issues.

Introduce Education Law PowerPoint: This activity is designed to build a foundation for participation in activities later on in the training as well as to give a broad overview of different federal and state laws. Instruct participants to turn to Handout 3 where they can take notes throughout the presentation.

Slide 1: Title Slide: Education in the Child Welfare System

Slide 2: Mission

- To equip you with a comfortable understanding of education law so that you can enhance the educational opportunities and student achievement for children touched by the child welfare system.

Read the mission aloud emphasizing enhancing educational opportunities and student achievement.

Slide 3: Why It Matters?

- Positive school experiences:
  - Enhance children's well-being;
  - Help children make more successful transitions to adulthood; and
  - Increase their chances for personal fulfillment and self-sufficiency.
- Educational success is a potential positive counterweight to abuse, neglect, separation, and impermanence.

Emphasize that children in the child welfare system have the same rights as other children, and there special considerations for the foster children under the law that they will learn about in this training.

Slide 4: Introductions

- Who are you?
- What's your role?
- What's your experience in the child welfare system?

Participant Introductions: Depending on the number of participants, please choose the appropriate method of introduction of participants to the group. Choose either the small group of up to 20 participants or the large group for 21 or more.

Small group: Ask participants to introduce themselves. Tell them to share their name, role or why they are here, and what their experience is in the child welfare system.

Large Group: Ask the participants to take 5 minutes to introduce themselves to 4 new people. Tell them to share their name, role or why they are here, and what their experience is in the child welfare system. Participants can reference the flip chart if assistance is needed with introductions.

Ask participants to raise their hand when you call out their profession: judicial officers, court staff, family group facilitators, guardians ad litem, respondent parent counsel, county attorneys, CASAs, DHS caseworkers, DHS supervisors

and managers, parents and grandparents, educators, foster parents, visitation supervisors, mediators, psychologists, mental health providers, drug and alcohol treatment providers, tribal representatives, etc. Remember to ask if there is anyone that has been missed.

Slide 5: Stakeholders

- Parents
- Caseworkers
- Judges
- Attorneys
- Educators
- CASA

Emphasize that we all can play important roles in supporting the education of children. This list consists of the usual main stakeholders but can also include other professionals as well.

EXERCISE 1: EDUCATION LAW LEARNING TOOL

Time: 15 Minutes

Description of Activity:

This activity is designed to accomplish two purposes. First, it will quickly expose participants to many common educational issues that arise. Second, it will be used as a learning tool throughout the presentation to keep the audience engaged and actively participating. Participants will be encouraged to fill in unanswered questions throughout the presentation. The Learning Tool is included in participants' materials as Handout 2.

Supplies Needed:

- Handout 2: Education Law Learning Tool

Trainer Instructions:

Explain Activity:

This is intended to be an icebreaker for the participants. Trainers are encouraged to develop a "theme" or game framework for the activity that will encourage participant interaction. Current events or popular culture may serve as a basis for the game format. For example, a trainer might use the "Are You Smarter Than a Fifth Grader?" game show format to ask a variety of questions to break the ice, mixing in approximately half of the education-related questions from the handout.

Participants can fill in the answers to the handout during the game. The handout will then serve as a learning tool for the participants as the presentation progresses. Those questions that are not asked during the icebreaker will be referenced throughout the day as the materials are presented.

Participants will be provided an "answer key" prior to leaving the training so that they have the correct information. This will then serve as a take home reference.

Slide 6: Quiz

Slide 7: What are the educational problems for the children you work with?

After the quiz, the facilitator will ask this open-ended question and allow some discussion with participants as to educational issues arising from their own experiences in practice (as caseworkers, judges, guardians ad litem, or others). These responses will then help to inform the facilitators as they continue with the substantive portions of the training.

EDUCATION LAW LEARNING TOOL ANSWERS

1. How many school districts are in Colorado? 178 (source: CDE)

2. Identify as many educational acronyms as possible.

   IEP: Individualized Education Plan

   FERPA: Family Educational Rights and Privacy Act

   FAPE: Free Appropriate Public Education

   ADA: Americans with Disabilities Act

   LEA: Local Education Agency

   LRE: Least Restrictive Environment

   IFSP: Individualized Family Service Plan

   IDEA: Individuals with Disabilities Education Act

   RTI: Response To Intervention

   CDE: Colorado Department of Education

   NCLB: No Child Left Behind

3. Who has the right to request that a child be evaluated for a disability? A parent, the school, or an educational surrogate (if there is no parent holding educational rights).

4. After a school has a referral for an initial evaluation, the school has 15 days to propose an assessment plan. Once the school has written consent to conduct the assessment, it must be completed within 60 days.

5. If requested, an IEP meeting must be held within 30 days.

6. If a child has a qualifying disability, what is the age range that he/she is eligible for special education services? 0 to 21.

7. Even if a child does not qualify for services under IDEA, he may still be eligible for services under Section 504 of the Rehabilitation Act if he has a physical or mental impairment which substantially limits one or more major life activities.

8. The Office for Civil Rights enforces the ADA.

9. When a school district wants to initiate or change something pertaining to a child's IEP, placement, or evaluation, the district must provide written notice to the parent.

10. Parents may address disputes with the school district through mediation or what type of hearing? A due process hearing.

11. If a student with a disability violates a code of conduct, the school may change the student's placement (suspend the student or place him in detention) for up to 10 school days without providing the student services.

12. What is a manifestation determination meeting and when must it be held? It is a meeting to determine whether the child's behavior that violated the code of conduct was a manifestation of his disability. It must be held within 10 days of the decision to change his placement if the change will last more than 10 days.

13. In Colorado, are children living in foster care considered to be homeless? No, but a child awaiting foster care placement is considered homeless.

14. How many weeks does a school district have to enroll a homeless child? None; it must be done immediately.

15. Is there ever an exception when a child without immunizations can enroll in school? Yes; a homeless child may enroll even if she is not current on immunizations. The district would have to arrange for necessary immunizations.

16. Each school district must have a homeless child liaison to assist homeless children with access and success in school.

17. Under McKinney-Vento, a homeless child is entitled to stay at her school of origin if it's determined to be in his/her best interest.

EDUCATION LAW OVERVIEW

Time: 1 Hour and 20 Minutes

Description of Activity:

The Education Law PowerPoint is designed to give participants an overview of education laws that affect children in the child welfare system. In this section, the PowerPoint slides will briefly cover all the major federal and state laws regulating education. The trainer will engage participants throughout the presentation; this information is specifically geared towards ways participants can advocate for children in the child welfare system. Participants are encouraged to take notes during the presentation on the PowerPoint handouts.

Supplies Needed:

- Computer, projector, and screen or blank wall to display PowerPoint
- Handout 3: Education Law PowerPoint

Trainer Instructions:

Explain Activity: The goal of this activity is to give a broad overview of important federal and state laws that regulate the education system. Instruct participants to utilize Handout 3 where notes can be taken throughout the presentation.

Slide 8: Overview of 5 Major Federal Laws

Slide 9: Five Major Federal Laws

1. Individuals with Disabilities Education Act (I.D.E.A.)
2. Section 504 of the Rehabilitation Act
3. McKinney-Vento Homeless Assistance Act
4. Fostering Connections to Success and Increasing Adoption Act of 2008
5. Family Educational Rights and Privacy Act (FERPA)

The first four key pieces of legislation provide access to supports and services for children that can provide life changing opportunities. The fifth, FERPA is important for your ability to access the information you need to enforce the rights of the children you represent.

Slide 10: Individuals with Disabilities Education Act (IDEA)

- I.D.E.A."

- Applies to children with a broad range of disabilities.
- Entitles eligible children to **Individualized Education Plans (IEPs).**
  - This is an affirmative right to a certain quality of education. More than "equal access."
- Very complex Act. We will spend much of the afternoon on the IDEA.

Briefly explain the purpose of the Act. Assure participants that we will address this in depth later in the presentation.

Slide 11: 2. Section 504 of the Rehabilitation Act

- Section 504" or "504"
- Prohibits *discrimination* against people with disabilities.
  - Unlike IDEA, applicable to other government programs, not just education.
- Disability" means impairments that substantially limit *major life activities* (walking, talking, learning, working, seeing, breathing)
- Services under Section 504 are implemented by school districts.

Introduce Section 504. Explain that this overlaps quite a bit with the ADA. For our purposes we'll just refer to 504.
If a student does not qualify for special education services, the team can explore initiating a 504 plan to provide services and supports in order to access the general education curriculum. Each district has a 504 coordinator that can assist in facilitating this process.

What specifically is a 504 plan?

504/ADA protects students as well as parents, grandparents, employees, and other members of the community who have disabilities.

Definition of Section 504: Prohibits discrimination against persons with disabilities and elaborates on qualifying factors. 504 applies to any person with a disability regardless of age which differs from IDEA. 504 offers protection in all communities as well public schools.

Accessing 504 in the school district allows opportunity for students who would not qualify for special education support to access support through general education allocations in order to support special needs.

A 504 Plan is developed by a team, which can include parents, principals, classroom teachers, and specialists.

Each school district has a 504/ADA Coordinator to assist in the evaluation, eligibility, and plan development.

Services provided through 504 Plan can include supports and services necessary for any student to access the general education curriculum. Nursing services, specialist consult services with recommendations, or modifications can be included.

Slide 12: Section 504 cont.

Non-Discrimination:

- Provides *equal access* to a free appropriate public education: the provision of regular or special education services to meet the needs of students with disabilities *as adequately as the needs of students without disabilities.*
- EQUAL ACCESS vs. affirmative right to FAPE

Section 504 also overlaps with IDEA, but it is a different Act with somewhat different purpose and applicability. Distinguish equal access to FAPE under 504 and affirmative right to FAPE under IDEA. Students with disabilities who do not meet the qualifications for an IEP still have the right to equal access general education. Not all students with disabilities meet eligibility requirements to receive special education services.

Slide 13: Section 504 cont.

Eligible students have a "504 Plan" to provide equal access.
Examples:

- Students with diabetes require insulin administered by trained personnel.
- Students with physical disabilities require access to a modified keyboard.
- Students using wheelchairs require accessibility to school facilities.
- Students with visual impairments require large print materials.

Slide 14: 3. McKinney-Vento Homeless Assistance Act

- "McKinney-Vento" (42 U.S.C. §11431 et. seq.)
- Applies to children who are homeless.
- Homeless children have a right to stay in "school of origin" if in their best interests.
  - *School must provide transportation.*
- If not in best interests to stay in same school, right to immediate enrollment in new school, even without all records. § 22-33-103.5(5)
- Implemented by school districts.

This is the first of the "school stability" laws that gives certain children a right to stay in their home school, if it is in their best interests.

Slide 15: McKinney-Vento Cont.

- **"Homeless children and youth" =**
  - Children who lack a fixed, regular, and adequate nighttime residence, including:
  - Children living in emergency or transitional shelters
  - Children abandoned in hospitals
  - Unaccompanied homeless youth
- **Children "awaiting foster care placement"**
  - No federal definition of children "awaiting foster care placement"
  - Up to states to determine.
  - No statewide definition in Colorado.

Determining who is "homeless" is an issue with the McKinney-Vento Act since "awaiting foster care placement" is not defined. Since it is not defined, argue that it should be interpreted broadly.

Slide 16: 4. Fostering Connections to Success and Increasing Adoption Act of 2008

- "Fostering Connections" - P.L. 110-351, 42 U.S.C. 629 et seq. and 42 U.S.C. 670 et seq.
  - Sweeping legislation that affects many areas of child welfare law – we're just looking at education.
- The education portion of the Act provides educational stability for children in out-of-home placements
  - Stay in same school if in best interests
  - If moving schools in best interests, **immediate** and **appropriate** enrollment in a new school, with all educational records provided to new school.

This is the second "school stability" law giving certain children a right to stay in their home school, if it is in their best interests. Here, it applies to children in out-of-home placements.

Note the ambiguity about the timing of records transfer. It is clear that enrollment must be immediate, but it is not quite as clear that records transfer must also be immediate. It makes the most sense to interpret this as requiring immediate records transfer, but at the very least, records should be transferred promptly by the sending school, and the receiving school must not delay enrollment due to a delay in records transfer.

Slide 17: McKinney-Vento and Fostering Connections Compared

- McKinney-Vento Act (Education Law: NCLB)
  - Requires school districts to ensure school stability, provide transportation to school of origin, student in school of choice while disputes are resolved,

immediate enrollment, help of school liaisons to enroll, access to Title I funds.
  - Implemented by school districts

- Fostering Connections (Child Welfare: SSA)
  - Requires caseworkers to consider proximity and appropriateness of current school in placing children AND to ensure student stays in same school unless not in child's best interest. Transportation is permissible child welfare cost; no liaisons, no clear mandate on school districts so not clear how caseworkers can accomplish stability if schools do not cooperate.
  - Implemented by departments of human services

Although these two Acts have of similar school stability provisions, they have some key differences. Both laws might apply in a given situation.

Slide 18: 5. Family Educational Rights and Privacy Act

- "FERPA" - 20 U.S.C. § 1232g and 34 CFR Part 99
- Protects privacy of educational records *and*
- Parents have the right to review records
  - Within "a reasonable time" – max 45 days
  - Can be charged for copies unless fee effectively denies access.
    - Requests for waiver of copying fees rarely denied
  - Rights pass to children when they turn 18.

Professionals need to access records frequently to learn more about the children they represent. In addition to parents having access, others can have access by court order with the parents' knowledge.

Slide 19: FERPA Cont.

- *All* records about the child that are maintained by the school. Including, but not limited to:
  - Grades, progress reports, test scores
  - Attendance
  - IEPs, evaluations, and all other related documents
  - Discipline records
  - Internal communication (e.g., emails) about the student
  - Law enforcement records maintained *by the school*
- Does NOT include:
  - Notes made to aid the note-taker's memory
  - Law enforcement records created and maintained by a law enforcement unit that may operate in the school.
- Template letter in packet to request records.

"Records" is defined broadly to almost everything with the child's name on it. To have your request answered promptly and without issue, state specifically what you want or to identify the scope, e.g., "everything pertaining to the January 2012 discipline incident including all emails, statements, reports, etc."

Other students' names or identifying information will have to be redacted to ensure some records are not withheld due to the other students' confidentiality.

NETWORKING BREAK
Time: 10 Minutes
Description of Activity:

Take a break!

Trainer Instructions:

It's now time for participants to take a break, stretch, move around, and mingle with other participants. Give participants a break for ten minutes.

Slide 20: School Stability in Action: Applying the laws to specific situations

Slide 21: All About…Staying in the Same School

When a child's residence changes, there is often pressure to move the child to a new school.

Pros and Cons of moving schools?

Open up for discussion and solicit or provide Best Interest Factors:
- *Anticipated length of stay in new placement*
- *Safety of the school environment at the school of origin*
- *Distance and time it will take to commute*
- *Strength of ties with peers, staff, and teachers*
- *Strength of the academic program and ability to meet any needs for special instruction*
- *Availability of academic and extra-curricular programs*
- *Ability to transfer credits, earn full credit, and continue to progress to next grade*

Slide 22: Same School Cont.

- All children in Colorado can remain in their school until the end of the semester. The district probably has to provide transportation. 22-32-116, C.R.S.
- Additional rights to stay in same school depend on child's status:
  - Elementary student?
  - 12th grade student?
  - Homeless?
  - In an out-of-home placement?
  - A child with a disability?

Slide 23: Same School Cont.

Elementary School Children:
- Can stay in the same school for the rest of the year and reenroll *if:*
  - The child was included in the last October pupil count and has attended continuously since then; *and*
  - The child's guardian sends a written request to the principal; *and*
  - And the principal finds that there is space for the child and approves the request.
- **But…**the school district does not have to provide transportation after the end of the semester.
- **22-32-116, C.R.S.**

Slide 24: Same School Cont.

12th graders:
- Can stay in the same school for the rest of the school year
- The school district probably has to provide transportation.
- **22-32-116, C.R.S.**

Slide 25: Same School Cont.

Children who are **homeless:**
- Under **McKinney Vento,** have the right to stay in the same school *(school of origin)* if in their best interests.
  - School of Origin = the school the child or youth attended when permanently housed or the school last enrolled.
  - Once eligible, applies for remainder of school year or for period of eligibility.
  - Transportation must be provided to remain in school.
  - School of choice pending dispute resolution.

McKinney-Vento Homeless Assistance Act (42 U.S.C. §11431 et. seq.)

Purpose: To ensure that children and youth in homeless situations receive a free, appropriate public education, and to remove obstacles that delay enrollment or prevent access.

Each school district is required to provide a liaison to support the needs of children who are homeless.

"Homeless children and youth" means individuals who lack a fixed, regular, and adequate nighttime residence and includes:
- *Children living in emergency or transitional shelters.*
- *Children abandoned in hospitals.*
- *Unaccompanied homeless youth.*
- *Children "awaiting foster care placement."*
- *No federal definition of children "awaiting foster care placement". (AFCP)*
- *Up to states to determine*

Public school responsible for consistency in education. Once eligible, applies for remainder of school year or for period of eligibility.

Slide 26: Same School Cont.

- Children in **out-of-home placements:**
- Under **Fostering Connections,** stay in the same school if it is in their best interests.

  - When changing placements DHS must:
  - Consider the appropriateness of the educational placement and the proximity of the school in which the child is enrolled.
  - Coordinate with educational authorities to maintain child's school placement if doing so is in child's best interests.
- DHS *can* provide transportation using Title IV-E funds.
- See also Colorado HB 08-1019 – *not very helpful*

Slide 27: Same School Cont.

Fostering Connections provides reimbursement for education-related transportation (Sec. 204):
- Act amends the definition of a Title IV-E foster care maintenance payment to include the cost of "reasonable travel" for transportation expenses related to allowing a child to remain in the same school he or she was attending prior to placement in foster care.
  - This is now reimbursed at the Medicaid matching rate.
  - Under previous law, states could seek Title IV-E reimbursement for travel related expenses as an administrative expense with a only 50 percent reimbursement rate.

Fostering Connections: This is the most sweeping piece of legislation in a decade. Remember, it addresses the child welfare system not education system.

The Act covers numerous areas within the child welfare system. The training will focus upon education stability in three areas: placements, transitions, and educational records.

Accessing transportation for students can be one of the most challenging components to a student remaining at the original school. Typically, transportation is one of the first services that takes a significant hit when there are budget cuts. However, students with disabilities are protected under IDEA to receive transportation as a related service should it be deemed necessary by the IEP team.

Slide 28: All about... Enrolling in a New School

Children in out of home placements:
- Fostering Connections: "immediate enrollment... with all records transferred..." Ambiguous timing for records.
- HB 08-1019: Sending school must transfer records within 5 school days, and receiving school must enroll within 5 days of receipt of records.
  - Enrollment cannot be delayed due to missing immunization records. Guardian has 14 days to provide.
- **Combined:** a right to immediate enrollment, and records must be transferred in 5 school days.

Student records should accompany a child to the new school if possible. If records are not available at enrollment, the student can still enroll with a request for records from the incoming school. A student with an IEP should have a transition meeting at the incoming school with the outgoing school support. Incoming schools have the right to accept or reject a student's IEP. If it is rejected, the incoming school must write an appropriate IEP for the student. Usually an IEP is rejected based on a significant change in placement like a student coming from a residential placement into a public school.

Slide 29: Enrolling in a New School Cont.

Children in out-of-home placements:

- House Bill 08-1019 created child welfare education liaisons in Colorado.
  - Designated by each school district and state charter school institute
  - Collaborating with child placement agencies, county departments, the state department, and schools
  - Ensures proper school placement, transfer, and enrollment of foster children.
  - The liaisons work with all parties to ensure a foster child remains in an educational situation that promotes stability.

House Bill 08-1019 created a new section in the education statutes within the section addressing the powers and duties of school boards.

Child welfare education liaison: H.B. 08-1019 requires school districts to designate an employee or contractor to be the "Child Welfare Education Liaison." The Liaison is responsible for working with the county departments of human/social services, child placement agencies, and CDHS "to facilitate the prompt and appropriate placement, transfer and enrollment in school of students in out-of-home placement within the school district or who are enrolled or are enrolling in institute charter schools."

When a child changes schools, the bill requires the sending school transfer the school records to the receiving school within 5 days. The receiving school must enroll the student within 5 days of receiving the records. These timeframes are triggered upon notification of a transfer request from the local department of social services that has legal custody of the child. Record transfers may not be delayed for any reason, including unpaid fines or fees that are outstanding at the sending school.

Slide 30: Enrolling in a New School Cont.

Children who are homeless:

- McKinney-Vento

  - Immediate and appropriate enrollment in new school, even without records.
  - Enrolling school must contact previous school to request records.
  - If child has no immunization records, enrolling school must arrange for immunizations.
- Colorado implementation: C.R.S. § 22-33-103.5

Slide 31: Enrolling in a New School Cont.

Children with disabilities:

- Under IDEA, districts are responsible for providing a free appropriate public education (FAPE) to all children with qualifying disabilities.
- No provision directly addressing prompt enrollment, but if they do not enroll the student, they are failing to provide FAPE.

Slide 32: All About... Fee Waivers

- Applies to children who are in out-of-home placements:
  - Colorado HB 08-1019: schools and districts **must waive** fees for students in out-of-home placements.
- This includes, but is not limited to:
  - Extracurricular activities and programs before, during, and after school
  - Books and lab fees
- Template letter quoting the Colorado law that you can use to request fee waivers. C.R.S. §22-32-138

Slide 33: Fee Waivers Cont.

Children who have disabilities:

- IDEA – does not waive fees, but note the "free" in FAPE.
- If something is provided for in the IEP as special education related service, it should be free, even if a fee would apply to other students.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (PART I)

Time: 1 Hour and 35 Minutes

Description of Activity:

The Education Law PowerPoint is designed to give participants an overview of education laws that affect children in the child welfare system. In this section, the PowerPoint slides will go more in depth into the Individuals with Disabilities Education Act. The trainer will engage participants throughout the presentation; this information is specifically geared towards ways participants can advocate for children in the child welfare system. Participants are encouraged to take notes during the presentation on the PowerPoint handouts.

Supplies Needed:

- Computer, projector, and screen or blank wall to display PowerPoint
- Handout 3: Education Law PowerPoint

Trainer Instructions:

Explain Activity: The goal of this activity is to give a broad overview of important federal and state laws that regulate the education system. Instruct participants to utilize Handout 3 where notes can be taken throughout the presentation.

Slide 34: Individuals with Disabilities Education Act

Slide 35: Individuals with Disabilities Education Act (IDEA)
- 20 USC §1401 et seq
- See also 34 C.F.R. §300.00 et seq

Slide 36: Individuals with Disabilities Education Act (IDEA)

- Part C: 0 – 3 years old
  - Early Intervention Services through an Individualized Family Service Plan (IFSP)
  - Most challenging piece – transition to Part B
- Part B: 3 – 21 years old
  - 3-5 years old – Preschool
  - 5-21 years old – K-12
  - Special Education and Related Services through Individualized Education Program (IEP)

Introduce the two main portions of IDEA and briefly summarize provisions. Part C of the Individuals with Disabilities Education Act provides infants and toddlers with special education and related services from birth until age three. Upon meeting eligibility requirements, services are provided to infants and toddlers through the Individual Family Service Plan or IFSP. Part B of IDEA provides services from age 3 to 21 years old in the public school system through the Individual Education Plan or IEP.

Slide 37: IDEA: Child Find

- School districts have a duty to identify children with disabilities.
- Any interested person can refer a child for evaluation:
  - Pediatricians
  - Caseworkers
  - Parents
  - GAL/CASA

These slides address the child find evaluation process. If there is a concern in the child's developmental process, any above mentioned person can make a referral for an evaluation through Child Find at the public school system. The evaluations are completed by a multi-disciplinary team that can include a Special Educator, motor therapist, psychologist, nursing services, or a vision or hearing specialist. Eligibility for services will be determined at the first eligibility meeting.

Slide 38: IDEA: Child Find for 0 to 3 year-olds

- Responsibility for Child Find Evaluation:
  - Public School District where child is living. Assessment completed by Early Intervention Multi- Disciplinary Team
  - Can take several days for completion based on each child's individual needs
  - Required to be completed within 60 days
  - State Early Intervention Colorado
  - (888) 777-4041, www.eicolorado.org

The Child Find Team at each school district can be a point of entry for a request for evaluation for a child of any age just entering school. This initial process can be very overwhelming for parents or guardians as much new information is delivered. There is also a significant emotional component as caregivers will be processing the impact of raising a child with a disability.

Slide 39: IDEA: Transitions Pending Eligibility

- If child moves to different school district prior to assessments beginning, then must initiate a new referral.

- If child moves after assessments begun but not completed, then outgoing district can, but not required, to make a referral to receiving district for assessment completion.
- If child moves after assessment completed but eligibility not determined, incoming district can use the assessments to determine eligibility.
- If child moves after eligibility determination, then transition meeting within 30 days.

During this critical time of transition, students can easily slip through the cracks. It is imperative that consistent follow up communication occurs to ensure a continuity of service between schools and districts.

Slide 40: Individuals with Disabilities Education Act Part C - Children 0-3 years old

Slide 41: Services under IDEA Part C: IFSP for Children 0-3 Years Old

- IFSP: Individualized Family Service Plan
- "The IFSP process emphasizes services to meet the child's and family's needs and considers the resources, priorities, and concerns of the family."

The IFSP is family centered planning that is Part C of IDEA that supports infants and toddlers from birth to three.

Slide 42: Elements of IFSP

- Services are delivered in a natural environment
- Can include services to support the family:
  - Family therapist
  - Dietician
  - Speech/Language
  - Occupational Therapy/Physical Therapy
- Contact local school district

It is important to note that the main differences between the IFSP and the IEP are the family support component and the services delivered in the natural environment. Once an IEP is developed, the family support and natural environment can be considered but not an obligation of Part B.
Who else can be included?

Slide 43: IDEA Transitioning From Part C to Part B

- Part C services terminate immediately upon 3rd birthday
- Funding streams change
- Begin ninety days prior to child's 3rd birthday

- Part C coordinator is required to initiate transition to Part B

The transition process begins at least 90 days prior to the child's 3rd birthday. This process includes transitional planning with the Part C early intervention team as well as the Part B pre-school team.

NETWORKING BREAK
Time: 10 Minutes
Description of Activity:

Take a break!

Trainer Instructions:

It's now time for participants to take a break, stretch, move around, and mingle with other participants. Give participants a break for ten minutes.

Slide 44: Individuals with Disabilities Education Act: Part B – Children 3 thru 21 years old

Slide 45: IDEA: Part B

- Eligible population: children with disabilities entitled to a Free and Appropriate Public Education (FAPE) from the age of 3 until they graduate high school or turn 22, whichever come first.
- Services are provided in the public school, homes, hospitals, treatment centers, and in other settings.

Introduce the two main portions of IDEA and briefly summarize provisions. Part C of the Individuals with Disabilities Education Act provides infants and toddlers with special education and related services from birth until age three. Upon meeting eligibility requirements, services are provided to infants and toddlers through the Individual Family Service Plan or IFSP. Part B of IDEA provides services from age 3 to 21 years old in the public school system through the Individual Education Plan or IEP.

Slide 46: What is a Free Appropriate Public Education (FAPE)?

Special education and related services that:

- Have been provided at public expense, under public supervision and direction, without charge
- Meet the standards of the Colo. Dept. of Education
- Include an **appropriate** preschool, elementary school, or secondary school in Colorado
- **Are provided in conformity with the Individualized Education Program (IEP).**

This is the definition of "free appropriate public education" as indicated in IDEA.

Slide 47: Who Are Children with Disabilities? Children with:

- Significant Identifiable Emotional Disability (SIED)
- Cognitive Disability
- Autism
- Specific Learning Disabilities
- Physical Disability (e.g., ADHD)
- Speech or Language Delay
- Deaf or Blind
- Traumatic Brain Injury
- Other Health Impairments

Listed are the most common disabilities that could qualify for services under IDEA. Mental Health issues seem to be a primary challenge in program development and drive creative educational programming and support. Having a disability on this list does not mean a student will be automatically eligible for special education services. A student's disability must prevent the student from receiving benefit from the general education curriculum alone.

Slide 48: IDEA Eligibility

- Should you make a referral for special education?
- Pros and cons?

Slide 49: If you make a referral

- It is unclear whether CASAs and GALS can make the referral for an evaluation.
  - To be on the safe side, try to get the signature of a parent, caseworker, or someone who works at the school.
  - The referral itself can trigger some discipline protections
- You will get a template letter to use for making evaluation referrals.

Slide 50: Timeline for Eligibility Determination

- The school district has **60 days** from the date they receive consent from the "parent" to make an eligibility determination.
  - Referral ≠ consent
- This means the district has to *complete* the evaluation process and issue a decision about whether the child is a child with a disability.

Slide 51: Consent for Evaluation

- A "parent" must consent to the evaluation.
- Receipt of parental consent starts the clock on the district's timeline for determining eligibility.
- The template letter packet includes a letter to use for documenting consent.

Slide 52: Who is a "parent" under IDEA?

- A "parent" can be a foster parent, guardian, kinship caregiver, or a surrogate appointed by the school or court.
- Without a court appointment, the biological/adoptive parent is the "parent" *IF* they attempt to act as parent for IDEA purposes.

Slide 53: Response to Intervention (RTI)

- RTI is a tiered system of interventions to help children who are struggling in school to catch up.

  - Lots of positives about RTI, *but* . . .
  - RTI ***CANNOT*** be used to delay or deny an evaluation for special education.
- Experiences with this?

Slide 54: Following Up on Your Referral for a Special Ed Evaluation

- You will get a template letter to remind schools that they have 60 days from receiving consent to make an eligibility determination.
- This letter includes a memo from the U.S. Dept. of Education explaining that RTI cannot be used to delay or deny an evaluation.

Slide 55: Individuals with Disabilities Education Act: The IEP Process

Slide 56: Steps in the IEP Process

1. Identification
2. Evaluation
3. Eligibility Determination
4. **Develop IEP** ← *We are here*
5. Implementation

Show participants where we are in the big picture of the IDEA process. We've already gone through the first 3 steps, and then you get to developing the IEP, which is where you get the substantive services for students.

Slide 57: Terminology

- IEP = Individualized Education Program
- IEPs are written by an "IEP Team"

Slide 58: FAPE Diagram

Eligibility: Child found to have a disability > Right to FAPE > FAPE = Implement the IEP

Explain the significance of an IEP. A guarantee of FAPE is the substantive benefit of being found eligible for services under IDEA. What FAPE is depends on the unique needs of each child, as laid out in the IEP. FAPE requires the school district to implement the IEP. So what is decided in an IEP meeting is very important, and it has the force of law.

Slide 59: Who are the Members of the IEP Team?

- Parents
- Regular education teacher
- Special education teacher

- A representative of the school district who is qualified to provide special education services, knows the general curriculum and the district's resources
- Someone qualified to interpret evaluations impacting the child's
- Others who have knowledge regarding the child or services
- The student, where appropriate

Go over all the members of the team and why each one is important to be included in the discussion. The most important member of the IEP team is the parent. "Others" can include anyone that the parents want to bring along. If an attorney for the child or parents is present, the school will often want their attorney present as well. To avoid meetings being delayed. it is best to notify the school ahead of time an attorney will attend the meeting.

Slide 60: When do you have an IEP meeting?

- Initial: Determination of eligibility
- Annual Review: Review of Progress, Create next year's IEP
- Triennial Evaluation: Re-determination of eligibility
- Special Request IEP: Address specific concerns outside of annual review
- Transition IEP: Facilitates transitions from school to school or transfers in-state or out- of state

Point out the Special Request meeting. You can request a meeting at any time to address issues and revise the IEP. The transition IEP is also very important so that when kids are in a new educational setting, their IEP reflects their needs in that environment. This is especially important when the change is a step up or down on restrictiveness (e.g. moving from a facility school to a public school).

Slide 61: Elements of the IEP

About the student:
- Present levels of academic achievement and functional performance
- Measurable annual goals, including academic and functional goals
  - Short term or "benchmark" goals (advisable but not always required)
- How progress will be measured

IEPs look a little different from district to district, but by statute they all include certain elements.

"Present levels of achievement" documents what the child's strengths and weaknesses are. This is important to developing appropriate goals. Can also be referred to if disputes come up later.

Goals are how you know if the child is making sufficient progress. It is very important to make clear how progress will be measured. as success or failure in

reaching the goals can tell you whether the IEP is being complied with or whether the IEP is appropriate in the first place. We will spend a good deal of time in the next section on developing well written goals and measurements.

Slide 62: Elements of the IEP cont.

What school will do:
- Special education and related services, supplementary aids and services
- **Related services** means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education
  - See 34 C.F.R. 300.34 for related services

Special education is the educational services that a student receives. This includes services to advance in the academic curriculum (e.g., math and reading) as well as services toward functional goals. like things a child needs to master to be able to get a job and live independently. These services do NOT have to be the direct result of the child's disability. So if you have a child whose has bipolar disorder or PTSD, that child can still receive special education in math if they need it.

Related services are anything a child needs to be able to access or benefit from special education. This could be a wide variety of things. including transportation, behavioral supports, nursing services needed for the child to stay in school, etc. Specifically included by definition:
- *speech-language pathology and audiology services*
- *interpreting services*
- *psychological services*
- *counseling services, including rehabilitation counseling.*
- *physical and occupational therapy*
- *recreation, including therapeutic recreation*
- *early identification and assessment of disabilities in children*
- *orientation and mobility services*
- *medical services for diagnostic or evaluation purposes.*
- *school health services and school nurse services*
- *social work services in schools*
- *parent counseling and training*

Slide 63: More about Specific Services

- The IEP must include:
  - Who will provide service
  - Projected date service is to begin
  - Frequency of the event
  - How long the services will be provided

- Setting where the services will be provided

The devil is in the details. Do not expect an IEP to be fully implemented if it is not clear who is accountable for what and on what timeline.

Slide 64: Elements of the IEP cont.

What school will do, continued:

- Modifications and accommodations – in the general classroom and in standardized testing.
- The effective date of the IEP
- Once the child is 14 or will turn 14 in that year, transition services, continuing until the child turns 22 or graduates.

Standard modifications include extended time, a private room or small group, directions read aloud, and opportunity to take frequent breaks. If there is a non-standard modification that the child needs, ask for it! For instance, for some kids, a snack or being allowed to chew gum might help them concentrate. Being seated away from windows or near a clock. Think about the child's individual needs.

Transition services are an area where you really have to advocate if you want quality services. For example, administration of a career interest inventory is not much of a service if there is no follow up. Remember to lay out the who, what, and when, and remember to keep in mind the individual child.

Children should be very involved in developing their transition goals, but it should not be a rote recitation of what the child says. A statement that the student wants to attend a four year college and be a football player is a disservice if that is an unrealistic goal.

Slide 65: Elements of the IEP cont.

What school will do, continued:

- The extent that the student will participate with the students without disabilities in the general education classes
  *** LEAST RESTRICTIVE ENVIRONMENT ***
  - Removal from the regular educational environment only if education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

This is a critical part of the IEP and rife for disputes.

The environment that is selected as least restrictive environment is sometimes used interchangeably with "placement." For instance, the least restrictive environment for a certain child might be in the general education classroom 85% of the time, with certain supports, and to be pulled out into a "self-contained" special ed classroom for math. That breakdown is his "placement." Any substantial shift in the restrictiveness of the environment would be considered a change in placement, e.g., if he started spending 50% of his day in the special education room.

Slide 66: "As Needed" Parts of an IEP: Behavior Intervention Plan

- Starts with a **Functional Behavior Assessment** to determine the type, frequency, and *function* of the misbehavior.
  - Based on the principle that children misbehave for some reason, not just because they are "bad" or "defiant."
  - **Example:** Jose talks and makes inappropriate jokes in math class in order to get attention from his peers and to avoid doing challenging work.

- **Interventions** include steps to redirect behavior and to address the function of the misbehavior in an appropriate way. Examples:
  - Stoplight: Jose's teacher will give him "green, yellow, or red" score for his behavior each class period.
  - For a "green" period, he gets a small reward, e.g., food, stickers, temporary tattoo. For a week with no "red" periods, he gets 20 minutes extra gym time.
  - Jose's counselor will help Jose identify appropriate opportunities to get peer attention, e.g., telling a joke on the morning announcements or joining a sport.
  - If Jose is struggling to work independently in math class, he will put a red card on his desk to alert his teacher. Jose will have a workbook of easier math problems to work on until the teacher can help him.

These elements can be added as needed for the individual child. A Behavior Intervention Plan is the most common and can be an amazing tool. The Functional Behavior Assessment is based on the principle that children misbehave for some reason, not just because they are "bad" or "defiant."
Be sure to ask the child what the source of their misbehavior is, in addition to observing and other sources of date. Also ask the child what rewards and consequences will motivate them to do well.

Other examples of interventions:

- *Jose's counselor will help Jose identify appropriate opportunities to get peer attention, e.g., telling a joke on the announcements or joining a sport.*
- *If Jose is struggling to work independently in math class, he will put a red card on his desk to alert his teacher. Jose will have a*

workbook of easier math problems to work on until the teacher can help him.

If a Behavior Intervention Plan is not followed and that failure results in a child's misbehavior, the behavior is by definition a manifestation of the disability.

Slide 67: Other "As Needed" Parts of an IEP

- Assistive Technology
- Communication Plan
- Health Care Plan
- Crisis Plan
- Safety Plan

These elements can be added as needed for the individual child. Anyone have experiences with these?

Assistive technology includes as assessment by a team of professionals that can determine what technology needs a student requires in order to access the general education curriculum.

A communication plan supports students who are hard of hearing or deaf.

A health care plan incorporates medical needs, such as medication delivery as well as protocol to address medical emergencies like seizures.

A crisis/safety plan can include a very specific plan based on behaviors that could result in a student harming his or herself or others.

Slide 68: Lunch

LUNCH BREAK
Time: 1 Hour
Description of Activity:

Time for lunch!

Trainer Instructions:

Inform participants that they will have an hour for lunch. Direct them to where lunch will be provided.

EXERCISE 2: CHILD WELFARE CASE ACTIVITY

Time: 1 Hour and 15 Minutes

Description of Activity:

This activity will allow participants to use what they have learned so far and put that into practice with the child welfare case scenario. Participants will review the case scenario and brainstorm to find as many educational issues as possible. They will use Handout 6: Checklist Resource to assist them in identifying ways to support the educational needs of the hypothetical children. After a few minutes of working on their own, participants will work together with the large group to identify the educational issues. As participants call out educational issues, three facilitators (one for each child in the case scenario) will write those issues down for the group to see.

Supplies Needed:

- Handout 5A: Hypothetical Child Welfare Case Scenario
- Handout 5B: Spotting Educational Issues
- Handout 6: Checklist Resource
- 3 facilitators (in addition to lead trainer)
- 3 pages of flip chart each with a child's name written on a separate page:
  - Sandra
  - Leon
  - Brianna
- 3 markers

Trainer Instructions:

Explain Activity: Participants will be provided a case scenario that involves Sandra, Leon, and Brianna. Participants will be divided into 3 groups, each with a separate facilitator. Groups should be instructed to use prior experience with educational advocacy and what they have learned throughout this training to spot educational issues.

Participants will have about 5 minutes to read the child welfare case scenario. They should note the educational issues on Handout 5B (Spotting Educational Issues). Participants will then have 45 minutes to meet in their small groups and discuss the educational issues, as well as potential ways to advocate for each child. The facilitators should begin by having the participants introduce themselves to one another and share their past experience with educational advocacy. Participants should use the Checklist Resource to help them identify ways to support the educational needs of the children in the hypothetical. The facilitators should help participants spot the issue and elicit discussion regarding the services or resources that participants can use to address the educational issues. Topics for facilitators to raise with the group include: possible educational assessments, Part B and Part C

applicability, IEP referrals, educational surrogate issues, and school disciplinary procedures.

Prepare for Group Activity: While participants are reading and meeting in their groups, the trainer should set up for the large group issue-spotting activity. The trainer will tear out each of the three flip chart pages and hang the flip chart page where the large group can see.

Large Group Issue-Spotting: Ask participants to reconvene as a large group to discuss their answers from the small group activity. Allow 40 minutes to go through each child in the scenario: Sandra, Leon, Brianna. As the participants call out educational issues, have the facilitators write them on the respective flip chart. After all issues have been identified, open the discussion one child at a time to strategies for addressing the educational issue. Begin the discussion with Sandra, then Leon, and finally Brianna.

Hypothetical Case Scenario:

Marianne's three children were removed from her home and placed in foster care following a report from the school that the oldest child, Sandra, age 13, came to school dirty, tired, and hungry. The teacher, who has been concerned about Sandra before due to her violent outbursts followed by silences, was able to get her to explain that she had witnessed a fight between her mother and her mother's boyfriend in her house the night before. Sandra would not say if the police were called or whether there were weapons involved, but she did say that "there had been a birthday party." Sandra explained that she was up all night, trying to comfort her younger siblings, Leon, age 4, and Brianna, age 13 months. This morning she left the house while her mother and mother's boyfriend (Brianna's father) were still asleep. She stopped at a neighbor's to ask if the neighbor had some food that her brother and sister could have for breakfast.

Upon investigation, DHS workers found a filthy apartment in complete disarray, with chairs turned over, food spilled on the floor and empty beer cans scattered in the kitchen and living room. There was no fresh food in the refrigerator or kitchen cabinets. Sandra's brother and sister both appeared frightened, dirty and hungry. Sandra told the caseworker that Marianne and her boyfriend, Sam, fight and drink all the time.

Marianne (age 30) and Sam (age 28) downplayed the incident. They said there had been a party where others brought in the beer and then left without cleaning up. They adamantly denied that the children were in any danger. Marianne is a high school graduate and attended some college. She is unemployed and Sam works at a local meat packing plant. Marianne receives SSI survivor's benefits for Sandra.

Evaluation of the children showed no evidence of physical abuse. Sandra has been suspended from school four times this year for behavior issues. She has a pattern of absences and tardies, and is currently failing most of her classes. Despite being in seventh grade, Sandra is well below grade level in reading. Leon is neither enrolled in Head Start nor pre-kindergarten at this time. He has identifiable developmental delays; specifically, he exhibits a speech impediment and struggles with fine motor skills.

Brianna struggles to crawl and rarely babbles. Neither Leon nor Brianna have been seen regularly by a pediatrician; both are behind in their immunizations.

Over the past three years, DHS received four reports regarding Marianne, all involving neglect and possible drug use. None were substantiated as the children were not forthcoming with information, the home was adequate, and Marianne provided clean UAs each time. The file indicates that four years ago Marianne successfully completed an outpatient drug treatment program. There is some information that shortly after meeting Sam three years ago, Marianne resumed using drugs. Both Marianne and Sam deny any current drug use and deny that there is any violence in their home.

Sam entered Marianne's life shortly after she graduated from the drug program. Sam is from California and has no local family. The couple moved in together after dating for two months and has now lived together for a little over one year. Sam has been arrested for domestic violence with his previous girlfriend, but the case was later dismissed. Sam reports that the child Sandra "hates me and tells me she doesn't have to do anything I tell her," but that Leon calls him "daddy." He describes Brianna as the "light of my life" and tells the caseworker that he can take care of both Leon and Brianna. He insists that there is nothing wrong with Brianna and that "kids in my family were always a little behind the curve." Sam is not named on Brianna's birth certificate.

EDUCATIONAL ISSUE-SPOTTING: Use the Hypothetical Child Welfare Case Scenario to identify as many educational issues as possible for each child below.

Sandra

13 years old

Leon

4 years old

Brianna

13 months

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (PART II)

Time: 1 Hour and 30 Minutes

Description of Activity:

The Education Law PowerPoint is designed to give participants an overview of education laws that affect children in the child welfare system. In this section, the PowerPoint slides will continue to go more in depth into the Individuals with Disabilities Education Act. The trainer will engage participants throughout the presentation; this information is specifically geared towards ways participants can advocate for children in the child welfare system. Participants are encouraged to take notes during the presentation on the PowerPoint handouts.

Supplies Needed:

- Computer, projector, and screen or blank wall to display PowerPoint
- Handout 3: Education Law PowerPoint

Trainer Instructions:

Explain Activity: The goal of this activity is to give a broad overview of important federal and state laws that regulate the education system. Instruct participants to utilize Handout 3 where notes can be taken throughout the presentation.

Slide 69: The IEP Process In Action: Writing SMART Goals

Slide 70: Write SMART Goals

Specific:	List what you want your child to know and be able to do
Measurable:	Observe and collect data to show progress
Active:	Use action words
Relevant:	Target individual needs and interest
Time Limited:	Identify what the child will learn in one year

Slide 71: Example 1: Developing SMART Goals

Problem: John struggles to express his frustration appropriately and often yells and cusses at teachers when things aren't going his way.

Slide 72: Take 1

John will not cuss or yell at teachers 90% of the time.

Slide 73: Take 2

John will take a voluntary time out when he is frustrated instead of yelling and cussing.

Slide 74: Take 3

John will use 1 of 3 identified coping mechanisms when he feels frustrated 9 out of 10 times.

(this is a pretty typical-looking goal)

Slide 75: Ideal Goal

John will learn and implement positive coping mechanisms to deal with his frustrations, as measured by the following objectives:

- John will work with the school counselor to select 3 strategies by the end of next month to use when he is feeling frustrated;
- By the end of the school year, 9 out of 10 times that teachers direct John to use one of his strategies, he will immediately select and use one of the strategies;
- John will avoid cussing and yelling the entire day for 19 out of 20 school days by the end of the year.

This is the IDEAL level of clarity and specificity. As an advocate, you need to be strategic about where you focus your attention and the time in the meeting. It may be one particular goal or part of the BIP that is critical to a certain child – that is where you should put the most effort.

Slide 76: Example 2: Your Cases

- Need:
- Smart Goal:
- Short-term objectives:
- Supports and Services:

Slide 77: How to Prepare for an IEP Meeting

- Do your homework -- get the child's records, review them, consult with the child's therapists, GAL, teachers if possible, and others.
- Consider writing a letter to inform the school's representative in advance of what issues you'd like to discuss and what you hope to achieve.
- You will get a template for this type of letter.

NETWORKING BREAK
Time: 15 Minutes
Description of Activity:

Take a break!

Trainer Instructions:

It's now time for participants to take a break, stretch, move around, and mingle with other participants. Give participants a break for fifteen minutes.

Slide 78: Individuals with Disabilities Education Act: Discipline of Student with Disabilities

Slide 79: Discipline of Children with Disabilities

- MANIFESTATION: There are times when a student's misbehavior is "caused by, or had a direct and substantial relationship to, the child's disability." This is called a "manifestation" of the child's disability.
- Under the IDEA, children cannot be removed for **more than 10 days** for behavior that is a manifestation of their disability.

Is a student's behavior a manifestation of disability? Certain behaviors or responses to stimuli can sometimes influence a student's behavior. For example, if a student does not use verbal communication and is feeling anxious about a situation, you may see the student use physical behavior to push something away or run away from a situation. This is not behavior because the student is intentionally being bad. This is another form of communicating that what is happening is not working for the student. It is a form of non-verbal communication. Should the student be reprimanded for running away? No, the event preceding the behavior needs to be evaluated in order to determine what triggered the behavior.

Slide 80: Clarifying "Manifestation"

- Manifestation is NOT about knowing the difference between right and wrong.
- If the conduct was the direct result of the school's failure to implement the IEP, it is considered a manifestation.

Slide 81: When Must the IEP Team Make a Manifestation Determination?

Whenever a school changes or proposes to change the placement of a student with a disability for disciplinary reasons, the IEP team must meet to review the relationship between the student's conduct and the student's disability.

more than 10 days of suspension in school year

=

Change in placement (usually)

Slide 82: Manifestation Determination Review

- If the conduct WAS a manifestation of the disability, the school must conduct a Functional Behavioral Assessment (unless already done) and create or revise a Behavior Intervention Plan.
- The student must be returned to school, unless the parent and school agree to a change in placement as a part of the modification of the behavior intervention plan. 34 CFR § 300.530(f)(2)
- Sometimes the nature or frequency of the conduct may lead the team to conclude that the current placement is no longer the "least restrictive environment."

Slide 83: Interim Alternative Settings

- This is an exception to the rule that children cannot be removed for more than 10 days for conduct that is a manifestation of their disability.
- Regardless of the manifestation determination, if the student:
  - Had a WEAPON
  - Had or used illegal DRUGS or a controlled substance
  - Inflicted SEROIUS BODILY INJURY
- Then the student may be removed to an "interim alternative setting" for up to 45 school days

Weapon is defined under federal law. It is broad but specifically excludes very small pocket knives.

Slide 84: Manifestation Determination Reviews Cont.

- If the conduct was NOT a manifestation of the disability,
  - the child can be disciplined like any other child,
    - EXCEPT, even when suspended or expelled, children with disabilities are guaranteed FAPE.
    - They must receive services starting on the 11th day of removal for that school year.

The services students receive when they are removed are often very minimal and inadequate. The best case is for the student to be enrolled in another school. Online school is another option. "Homebound" education is usually only a few hours of tutoring per week. It is hard to imagine how this could provide FAPE.

Slide 85: IDEA Appeals, Complaints, & Mediation

- Forms and general information: http://www.cde.state.co.us/spedlaw/info.htm
  - Especially take a look at the link called "Dispute Resolution Options Table" (5th one down)
- State-level Contacts: http://www.cde.state.co.us/spedlaw/contact.htm
- Keep in mind, these procedures can take a long time. If it's possible to resolve things at the district level, you are likely to get faster results for the child.

Slide 86: Discipline Rights of All Students

Slide 87: Discipline Rights for ALL Students

- Children have rights to at least minimal due process before being suspended from school.
- At the *very* least, an explanation of why the student is being punished and an opportunity to respond.
- School districts and schools must follow their own policies.

This is based in constitutional law (Goss v. Lopez). It is very basic for suspensions 10 days or less. More formal procedures are required for suspensions over 10 days.

Slide 88: Colorado Law

School must notify parent or guardian immediately of the suspension and arrange a time to meet to "review" the suspension. C.R.S. § 22-33-105(3)(a)

Slide 89: Appeals

"A pupil suspended for a period of **ten days or less** shall receive an **informal hearing** by the school principal or the principal's designee prior to the pupil's removal from school, unless an emergency requires immediate removal from school, in which case an informal hearing shall follow as soon after the pupil's removal as practicable."

"Any pupil suspended for **more than ten days** shall be given the **opportunity to request a review** of the suspension before an appropriate official of the school district."

C.R.S. § 22-33-105(3)(c)

Slide 90: Make-Up Work

The school "shall provide an opportunity" for the student to make up school work while they are suspended.

The school district determines how much credit to give for the make-up work. They should "take into consideration" that purpose of this law is to allow the student to reintegrate into school.

C.R.S. § 22-33-105(3)(d)(3)

Slide 91: For More Colorado Discipline Law

C.R.S. § 22-33-105
and
C.R.S. § 22-33-106

Slide 92: District Policies

- Go to your school district's website and look for "school board" and then "policies."
  - The discipline section is usually a subsection under "students" or "pupils"

  - The subsections are in numerical or alphabetical order

Due Process requires districts to comply with their own policies.

Slide 93: School Policies

Sometimes the student handbook is on the school's website, but often you will have to request a copy.

Note that the larger division of government always trumps if the policies are inconsistent. So federal law trumps state; state law trumps district policy, etc. School rules are at the bottom of the chain.

CONCLUSION AND EVALUATION

Time: 20 Minutes

Description of Activity:

The Conclusion and Evaluation Session is designed to wrap up the training. The lead trainer will summarize the challenge that lies ahead of all participants: improving children's educational experiences by improving educational advocacy. The lead trainer will remind participants of the grim statistics and how they can help. Participants will be asked to fill out training evaluations and CLE paperwork before participants leave.

Supplies Needed:

- Evaluation – To be developed by U of M.
- Bag of candy

Trainer Instructions:

Final Thought: Explain that although the educational outcomes for children in foster care can be grim at times, their futures can be much brighter with coordinated and effective efforts to focus upon education as a primary issue in these cases.

Remind the participants that educational success is a strong and positive counterweight to abuse, neglect, separation, and impermanence.

Evaluations: Have participants complete the evaluations of today's training before they leave. Allot at least 15 minutes to complete the evaluations.

CLE Paperwork: Tell participants that CLE forms and a treat are available once they turn in the evaluations.