



# Education and Court Involved Youth

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Please note: Language in the presentation is paraphrased for brevity and in some cases does not directly quote the language in the relevant statutes, regulations, or case law. This does not constitute legal advice.

# Education And Court Involved Youth

## **- Risks**

- The Promise of School**
- Special Education and Supports**
- School Stability for Students in Foster Care**

# RISK: The Link between Childhood Adversity and Problem Behavior

- Adversity and Brain Development

- Executive functioning deficits:** inhibitory control, working memory, completing tasks, adjusting to changes, planning for future events, understanding consequences of actions

- Identifying and regulating emotions:** Difficulty utilizing positive coping skills

- Increased impulsivity:** likelihood to participate in high-risk behaviors

# RISK: The Link between Childhood Adversity and Problem Behavior

<https://www.youtube.com/watch?v=vITdNDLx-BU>



# 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

# Interventions And Prevention

- 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)

# Interventions and Stability

- **Intervention: Special Education and Support for eligible students with disabilities.**
- **Stability: Disciplinary Protections for students with disability and School Stability under ESSA.**

# Screening and Evaluation Across Childhood

- **Birth-3:**

- Screening for disability required. DCS Admin Pol and Proc. 14.7 provides that DCS will refer to the Tennessee Early Intervention Services (TEIS) for substantiated cases involving children ages three (3) and under.
- Services for babies and toddlers with disability.

## **Preschool, 3-5**

- Services for children with disability

## **School Age**

- **Special Education or Disability Related Accommodations**





# Foster Care and 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 & Helpern, 2001; Castrechini, 2009; Smithgall et al., 2004.



# Special Education: Section 504 & 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 birthday (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.

# Individuals with Disabilities Education Act

- 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 age 21 (whichever happens first).

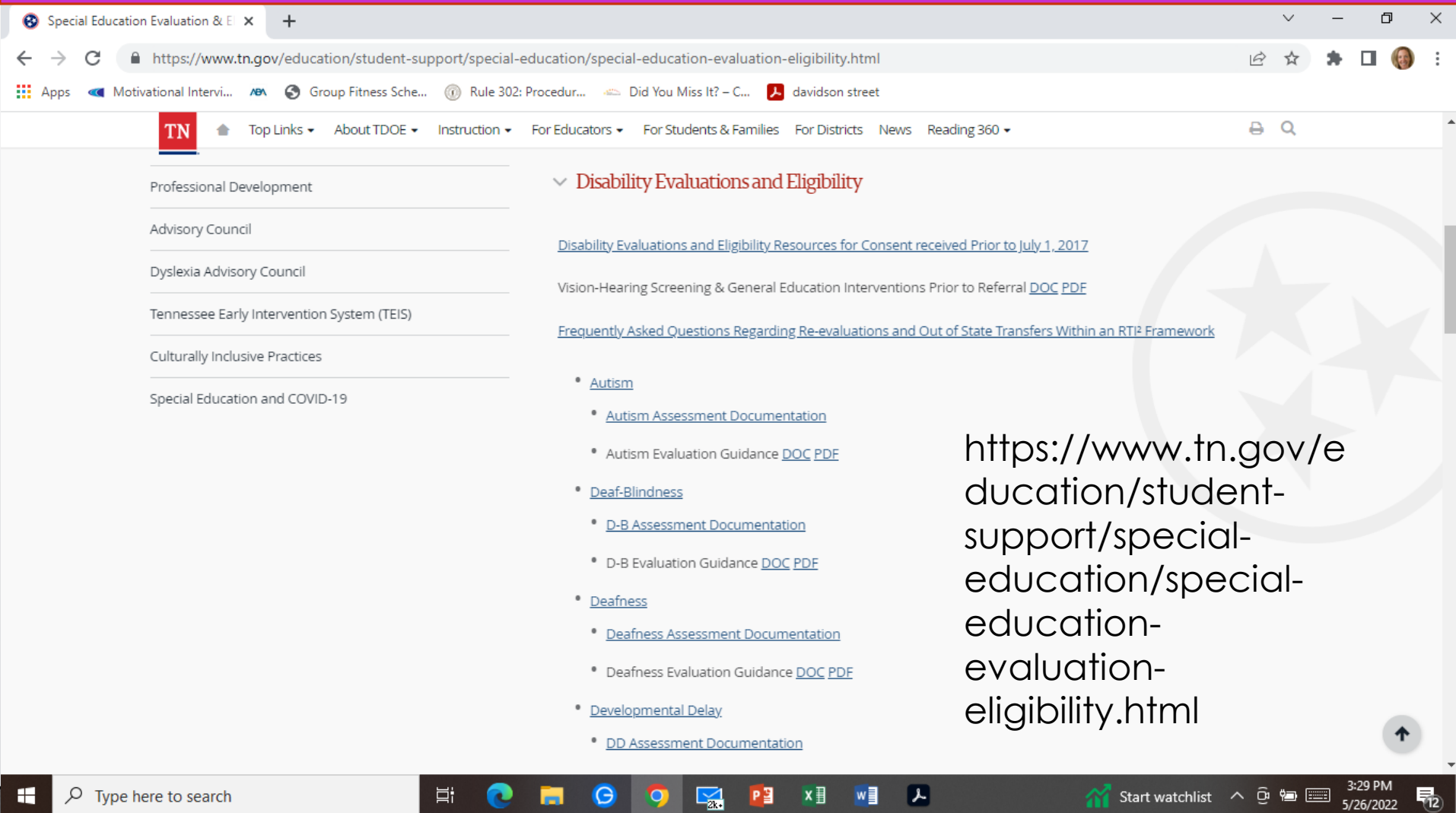


# Eligibility Categories Under IDEA

## THIRTEEN CATEGORIES

- Autism
- Deaf-blindness
- Deafness
- Emotional disturbance (ED)
- Hearing impairment
- Intellectual disability
- Multiple disabilities
- Orthopedic impairment
- Other health impairment
- Specific learning disability
- Speech or language impairment
- Traumatic brain injury
- Visual impairment (including blindness).

# Eligibility Categories in Tennessee



Special Education Evaluation & E x +

https://www.tn.gov/education/student-support/special-education/special-education-evaluation-eligibility.html

Apps Motivational Intervi... ABA Group Fitness Sche... Rule 302: Procedur... Did You Miss It? - C... davidson street

TN Top Links About TDOE Instruction For Educators For Students & Families For Districts News Reading 360

Professional Development

Advisory Council

Dyslexia Advisory Council

Tennessee Early Intervention System (TEIS)

Culturally Inclusive Practices

Special Education and COVID-19

Disability Evaluations and Eligibility

[Disability Evaluations and Eligibility Resources for Consent received Prior to July 1, 2017](#)

Vision-Hearing Screening & General Education Interventions Prior to Referral [DOC PDF](#)

[Frequently Asked Questions Regarding Re-evaluations and Out of State Transfers Within an RTI<sup>2</sup> Framework](#)

- [Autism](#)
  - [Autism Assessment Documentation](#)
  - [Autism Evaluation Guidance \[DOC PDF\]\(#\)](#)
- [Deaf-Blindness](#)
  - [D-B Assessment Documentation](#)
  - [D-B Evaluation Guidance \[DOC PDF\]\(#\)](#)
- [Deafness](#)
  - [Deafness Assessment Documentation](#)
  - [Deafness Evaluation Guidance \[DOC PDF\]\(#\)](#)
- [Developmental Delay](#)
  - [DD Assessment Documentation](#)

https://www.tn.gov/education/student-support/special-education/special-education-evaluation-eligibility.html

Type here to search

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# The Individuals With Disabilities Education Act- Part B

## **Key Components**

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

# Child Find

- A school system has an obligation to locate and evaluate students suspected of having disabilities.

# After the Referral

- After the referral, a School Based Team is usually convened to address concerns and discuss appropriate supports.
- The team may also discuss evaluation for special education.
- Or the team may decide to try intervention first, and then meet back to get consent to evaluate under IDEA or Section 504 if progress is inadequate.



# Parental Consent for Evaluation / Surrogate Parent (Foster Care)

- In general, birth parents keep educational decision making rights, unless a court has terminated parental rights, parents cannot be located, or the parents do not wish to be involved in the educational decision making.
- The surrogate parent mandate applies to children eligible for special education / early intervention services and those who need an evaluation to determine eligibility.
- The surrogate can be appointed by the schools, when the child is in full guardianship, or through juvenile court.

# Parental Consent for Evaluation / Surrogate Parent

## IDEA Sec. 300.519 Surrogate parents

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.

# Evaluation

- 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?

# Eligibility

- 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.

# The Individualized Education Program

- Developed with a team in an IEP meeting.
- Individualized based on the child's unique needs.
- Strengths
- Parent/Guardian's Concerns
- Special Factors:
  - Behavioral concerns? English Language Learner? Communication?
- Present Levels of Performance
- Annual Goals to address areas of need
- Accommodations, Modifications
- Plans for Transition to Adulthood
- Related Service Plan
  - Reviewed Annually

# Free Appropriate Public Education

- Special education and related services must be provided in conformity with the IEP.
- IEP must confer a meaningful educational benefit in relation to the potential of the child.

# LEAST RESTRICTIVE ENVIRONMENT (LRE)

- Children educated to maximum extent appropriate with non-disabled peers
- Removal from regular education: Nature/severity of disability means regular education can't be achieved satisfactorily with supplementary aids and services 34 C.F.R. 300.114(a)(2)

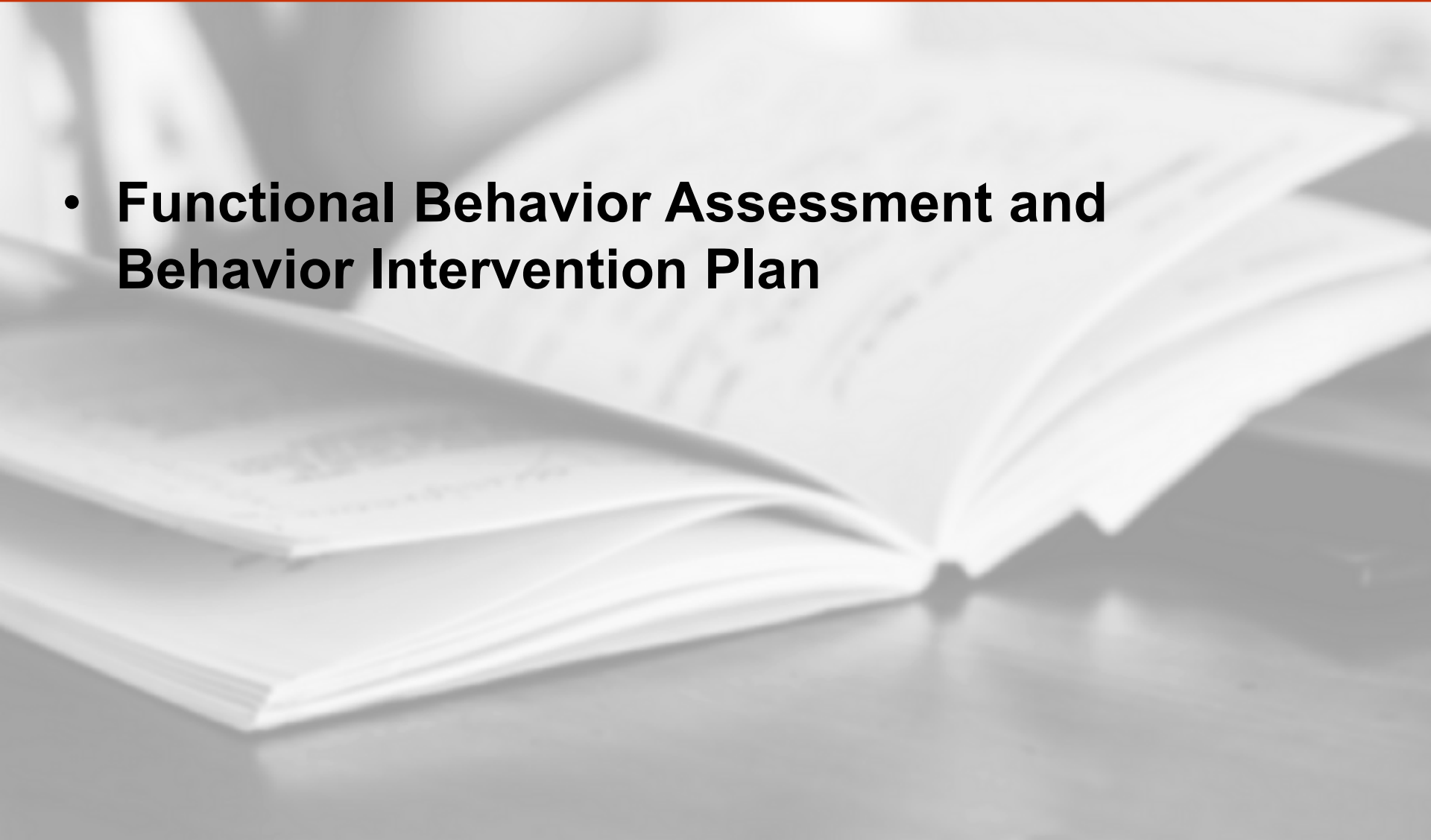


Homebound  
Hospital setting  
Public Special School

Regular education

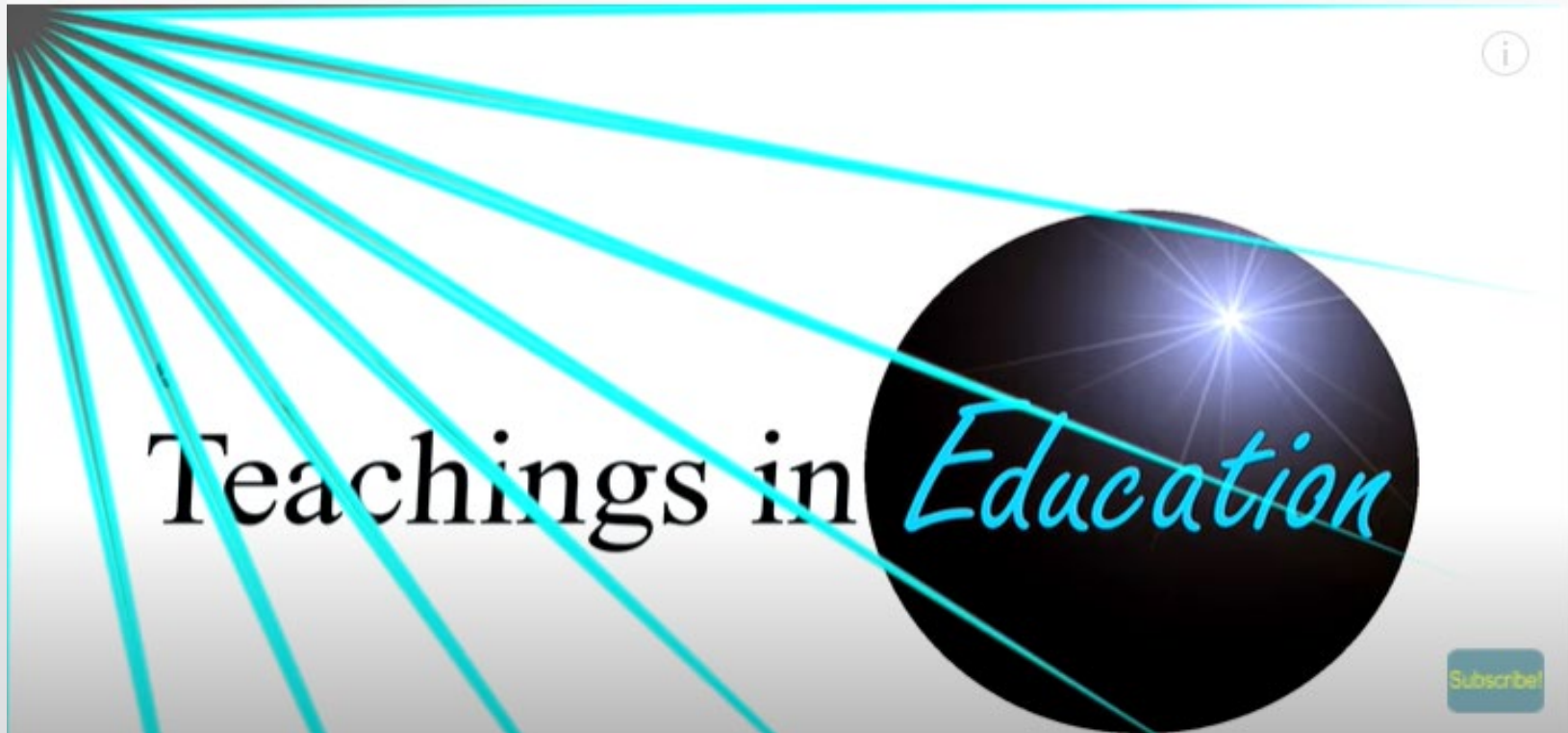
# Behavior Support under the IDEA

- **Functional Behavior Assessment and Behavior Intervention Plan**





# Behavior Support under the IDEA



<https://www.youtube.com/watch?v=Qaz5kcS2oD4>

# Discipline under the IDEA

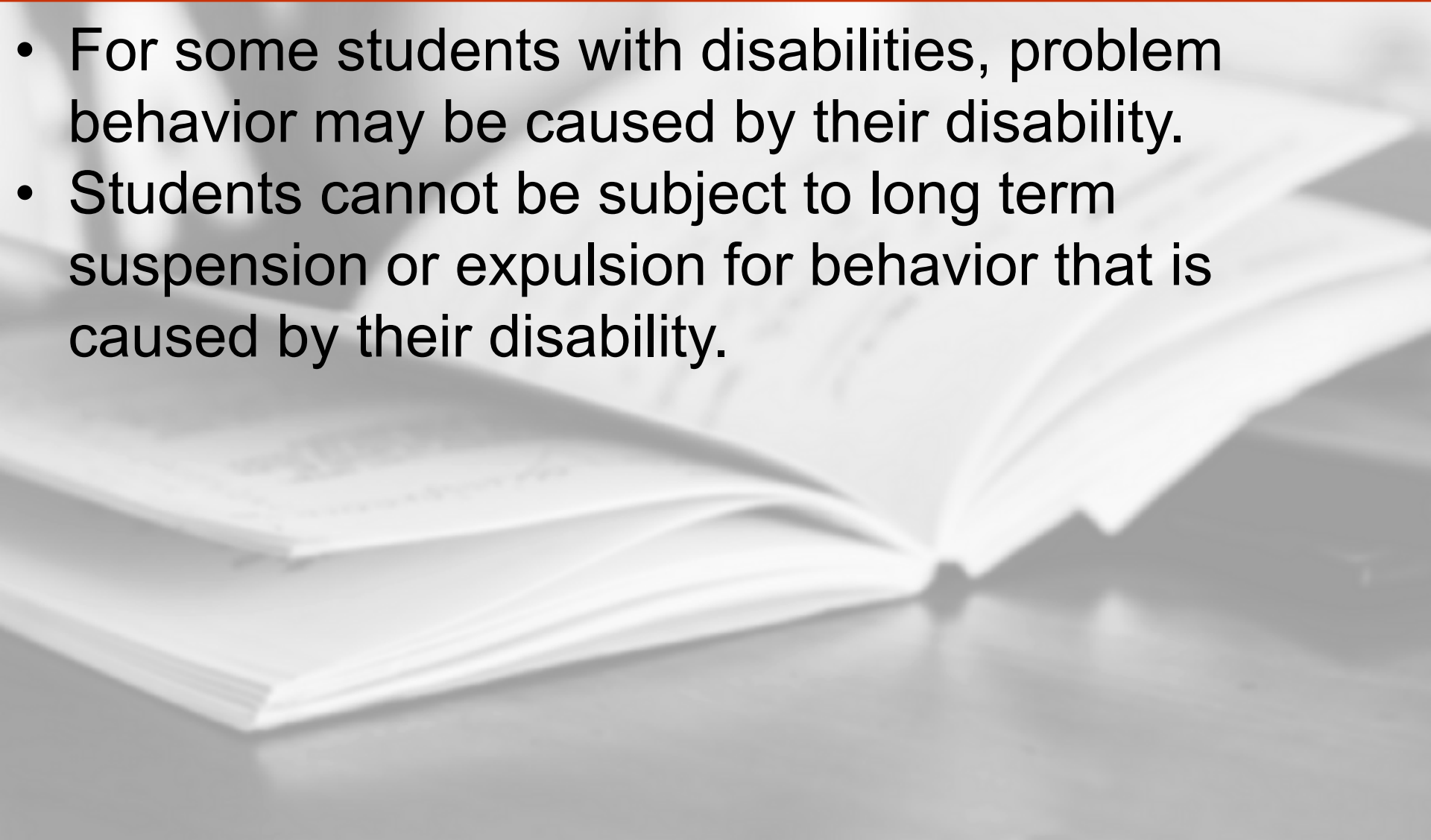
- One large study indicated children with foster care experience are 6 times more likely to demonstrate problem behavior (Turney & Wilderman, 2016).
- IEP Team must consider use of positive behavior interventions and supports.

# Suspension and Expulsion- Generally and for SWD

- 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 disabilities have extra rights.
  - Students with disabilities identified under IDEA or 504- or suspected of having disability, have the right to a formal review of their behavior before long-term suspensions or expulsions.

# Manifestation Determination Review

- For some students with disabilities, problem behavior may be caused by their disability.
- Students cannot be subject to long term suspension or expulsion for behavior that is caused by their disability.



# 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 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.

# 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
  - Must receive educational services
  - May receive behavior support, as appropriate.

# 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
  - Serious bodily injury to others.

# Manifestation Determination Review

- Section 504: An evaluation is required prior to an educational change of placement.
- The point is antidiscrimination, and the US DOE has said that the MDR meets the requirements of 504.



# School Stability and Students in DCS Custody

## EVERY TRANSITION COUNTS FOR STUDENTS IN FOSTER CARE



**UNC**

- <https://www.youtube.com/watch?v=VRwii1Q9Rnk>

# State of Tennessee Graduation Rates, 20-21

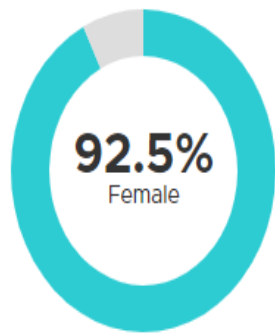
## State of Tennessee

About the state

Performance Indicators ▾

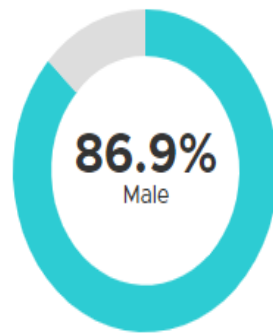
Other Indicators ▾

### Four year graduation rate by student gender



#### What does this mean?

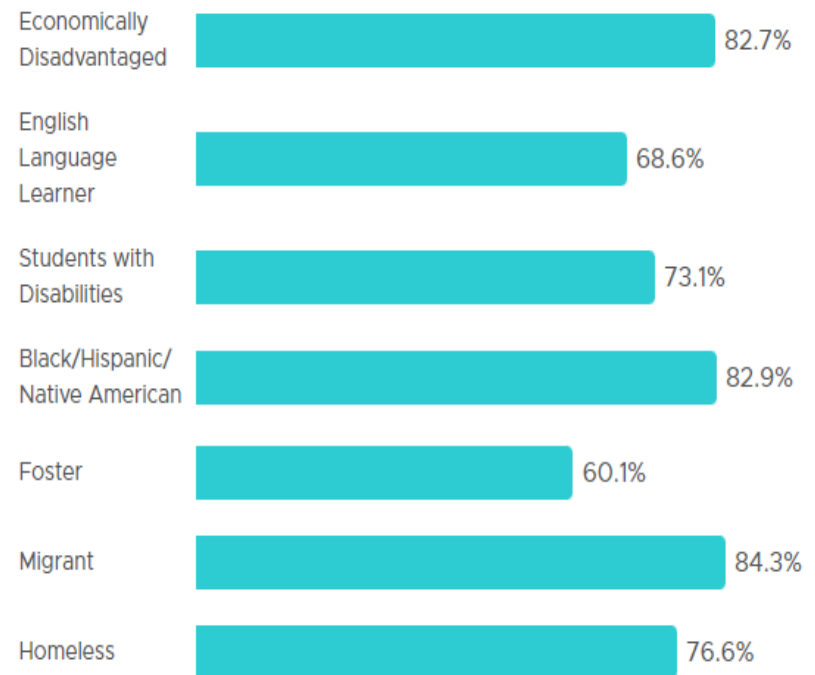
This figure demonstrates the four-year graduation rate by student gender.



#### Why is this important?

Graduation rate can vary across schools and districts as well as student groups.

### Four year graduation rate by student group



# MNPS Graduation Rates, 20-21

## Metro Nashville Public Schools

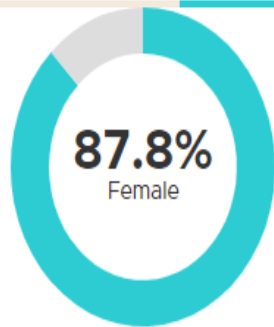


About this district

Performance Indicators ▾

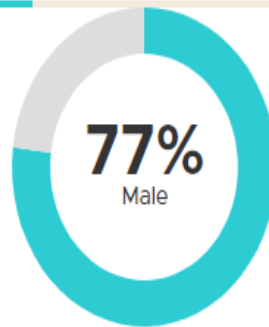
Other Indicators ▾

District Information



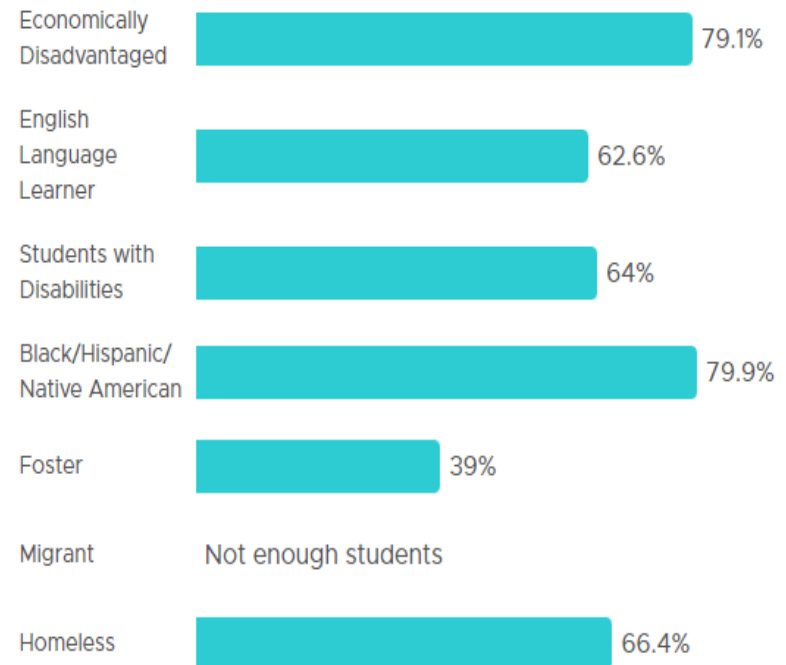
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# Shelby Co Graduation Rates, 20-21

Shelby County

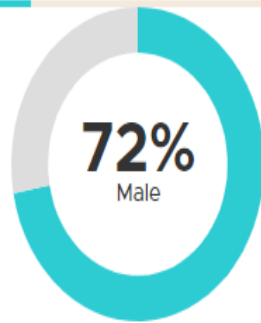
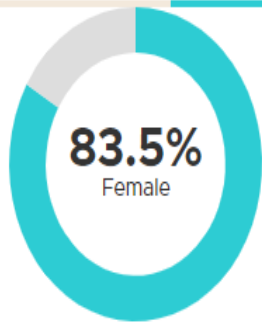


About this district

Performance Indicators ▾

Other Indicators ▾

District Information

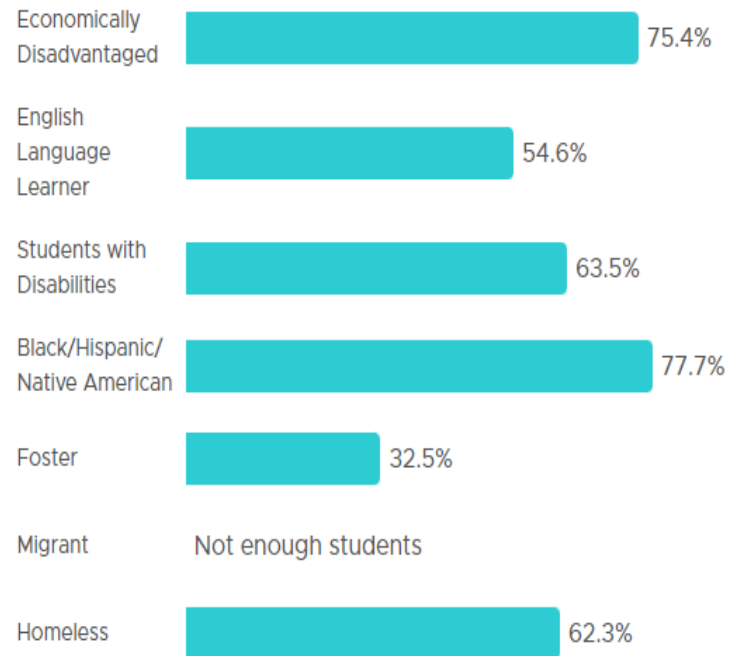


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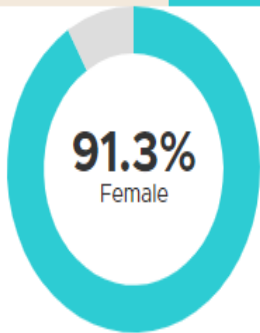


# Hamilton Co Graduation Rates, 20-21

Hamilton County

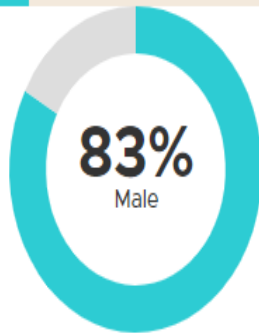


About this district Performance Indicators Other Indicators District Information



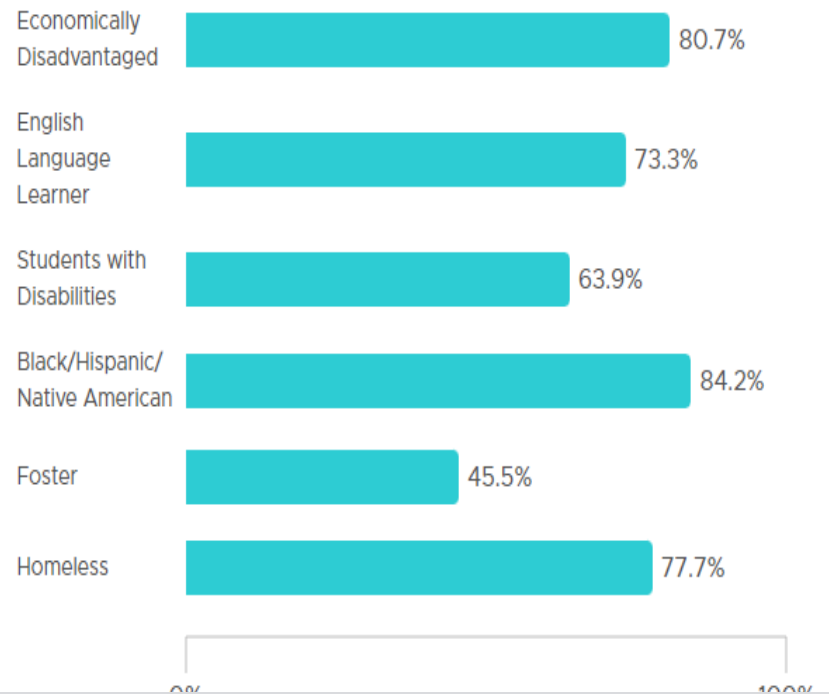
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# School Stability under ESSA

- Children in foster care remain in their school of origin unless it is not in the child's best interest.
- State Education Agencies (SEAs) and Local Education Agencies (LEAs) are encouraged to develop mechanisms to allow relevant parties to participate in the determination.
- LEAs must collaborate with the Child Welfare Agency to develop and implement clear written procedures.

# School Stability under ESSA

**Best Interest Determination:** The decision that a team makes about school changes for students in foster care. The decision must be based on the student's best interest and not transportation costs.

**The Every Student Achieves Act (ESSA):** ESSA is a federal education law that governs public education policy nationwide. It includes provisions related to school stability for students in foster care.

**School of Origin:** The school the student attended before coming into foster care or the last school the student attended in foster care, prior to a home placement move.

**School of Zone:** The school the student is zoned for based on his or her current home address.

**School Stability:** Access to the same school that the student has attended before a home placement move while in foster care.

# School Stability under ESSA- Application

ESSA's school stability provisions apply to students who live in:

- Foster homes,
- Group homes,
- Emergency shelters,
- Residential facilities,
- Child care institutions,
- Pre-adoptive homes.

The school stability provisions in ESSA also apply to youth in care stepping down from facilities. Additionally, if a public school system provides pre-school services for children ages 3-5, the school stability provisions apply to enrolled pre-school students in foster care.



# The Best Interest Determination (BID) Meeting

A Best Interest Determination Meeting (BID meeting) is required when a student in foster care moves to a different school zone. In general, when a student's home placement changes, the student should not be withdrawn from their school of origin and enrolled in a new school without the BID meeting.

# The Best Interest Determination (BID) Meeting

The student should remain in their school of origin unless it is determined that remaining in the school of origin is not in the student's best interest. If it is not in the student's best interest to stay in his or her school of origin, the student should be immediately enrolled in the new school, even if the student or the DCS Family Services Worker is unable to produce records normally required for enrollment.

# BID Process

**DCS sends notice of student move.**

**School sets meeting**

**Then sends notice to team,**

**BID made by team (parent with rights, SOO & DCS, can be joined by others: foster parents, GAL, CASA, etc.)**

**Stability transportation is arranged collaboratively or by policy or the student is enrolled in new school.**

**In the event of disagreement, DCS makes decision...**