

# EDUCATION CONSIDERATIONS: PREVENTION, PARTNERSHIP, AND PRACTICE

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AUGUST 14, 2023

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## Education and Risks

- Students in foster care are by far the most vulnerable student population.
- Statewide data show an approximate 43% graduation rate for students in foster care as compared to 90% for non-foster peers.

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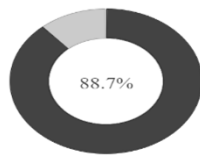
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## Tennessee Graduation Rate 2021-2022



TELL ME MORE

Graduation Rate

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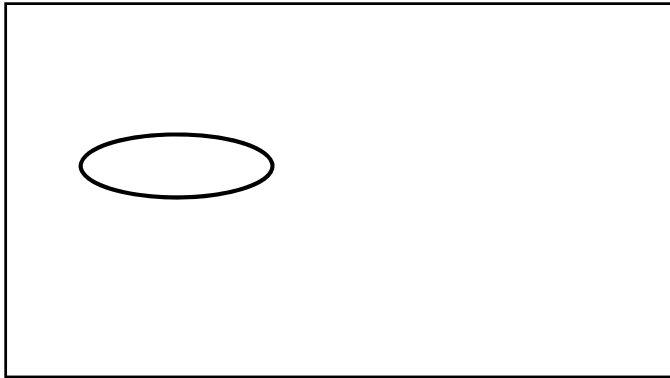
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### What is the Graduation Rate in Your Community?

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



2. From "Performance Indicators" drop down menu, select "Graduation Rate"



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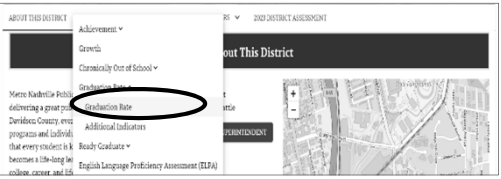
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### What is the Graduation Rate in Your Community?

3. Scroll down past the overall numbers to the bar graphs. How is your school system doing?



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## School Stability

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

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## From the Bench



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

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## From the Bench



- Do you see educational stability addressed on the permanency plan? Is the child changing placement?
- Ask DCS about the **BEST INTEREST DETERMINATION**.
- Did the child or youth maintain stability in their school of origin? Why or why not?

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## Truancy: The Law

- T.C.A. §§ 49-6-3001: COMPULSORY SCHOOL ATTENDANCE LAW.
- Every parent, guardian or other person residing within state having control or charge of *any child or children from 6 to 17 years of age, shall cause such child or children to attend public or non-public school*, and in event of failure to do so, shall be subject to penalties as set out.



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## T.C.A. §§ 49-6-3009: Tiers of Intervention

*LEAs shall adopt a progressive truancy plan that implements tiers of intervention for students who violate compulsory attendance requirements prior to filing of a truancy petition or criminal prosecution for educational neglect.*

- Tier One:** Schoolwide, prevention-oriented supports
- Tier Two:** Implemented after 5 unexcused absences. Must include a conference with student & parent/guardian; an attendance contract signed by student, parent/guardian and attendance supervisor; regularly scheduled follow-up meetings; individualized assessment; & referral to counseling, community-based services, etc.
- Tier Three:** School based community services; participation in school-based restorative justice program; Saturday or after-school courses to improve attendance; in-school suspension; etc. If unsuccessful and school can document parent/guardian unwilling to cooperate, then can refer to court.



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## Judicial Consideration: Holding the Parent, the Child, and/or the School Accountable

1. Did the school adopt a progressive truancy plan? Has it been implemented with any success? If plan was not implemented as required, the court shall dismiss petition. (T.C.A. §§ 49-6-3009(i))
2. Dependent and Neglected Child – A “dependent and neglected child” means a child who is under unlawful or improper care, supervision, custody or restraint by any person, corporation, agency, association, institution, society or other organization or who is unlawfully kept out of school. (T.C.A. §§ 37-1-102 (13) (C))
3. Unruly child - “Unruly child” means a child in need of treatment and rehabilitation who habitually and without justification is truant from school while subject to compulsory school attendance under § 49-6-3007; (T.C.A. §§ 37-1-102 (33)(A))



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**Judicial Consideration: Holding the Parent, the Child, and/or the School Accountable**



1. Is the parent or parents present at the hearing? If not, why not? If there is a risk of custody, has counsel been appointed? If so, has counsel met with their clients?
2. Is the child present at the hearing? If not, why not? If a GAL has been appointed, have they met with their client?

**Options in Toolbox:**

- Creative as to Orders
- DCS Order of Reference
- Appointment of GAL for investigation of D&N or when contemplating state's custody
- Refer to Family Crisis Intervention Program (FCIP) – prior to placing custody of an unruly child with DCS, the court is obligated to refer the child to FCIP pursuant to T.C.A. § 37-1-168
- Refer to FSS

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**Risk for Delinquency**

From School Discipline to Arrest:  
Problem Behavior at School

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**School Discipline**



Tennessee law gives authority to local boards of education to develop and manage discipline policies:  
49-6-3401(a)

Any principal, principal-teacher or assistant principal of any public school in this state is authorized to suspend a pupil from attendance at the school, including its sponsored activities, or from riding a school bus, for good and sufficient reasons. Good and sufficient reasons for suspension include, but are not limited to:

- (1) Willful and persistent violation of the rules of the school;
- (2) Immoral or disreputable conduct or vulgar or profane language;
- (3) Violence or threatened violence against the person of any personnel attending or assigned to any public school;
- (4) Willful or malicious damage to real or personal property of the school, or the property of any person attending or assigned to the school;
- (5) Inciting, advising or counseling of others to engage in any of the acts enumerated in subdivisions (a)(1)-(4);
- (6) Marking, defacing or destroying school property;
- (7) Many other more specific offenses

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## School Discipline



Studies have demonstrated that youth that are suspended and expelled are more likely to be arrested:

- “an individual is 157 percent more likely to report an arrest each year they are suspended relative to a year in which they are not suspended.” (Data from the NLYS; Thomas Mowen, John Brent, 2019)
- Another study found that youth are more likely to be arrested on days they are suspended from school—often as the result of so-called three-strikes policies. Furthermore, the increased likelihood of arrest is troublingly strongest among youth who do not have a history of criminal behavior. (Kathryn C. Monahan, Susan Van Derhei, Jordan Bechtold, and Elizabeth Cauffman 2014)

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## School Discipline

49-10-1304(3)(A) School personnel may report a suspected crime by calling a law enforcement official;  
(B) School personnel may file a juvenile petition against a student receiving special education, only after conducting a manifestation determination that results in a determination that the behavior that resulted in the act requiring disciplinary action was not caused by the student’s disability; or  
(C) A school resource officer (SRO), as defined by § 49-6-4202, may, upon witnessing an offense, take the student into custody.



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## 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.



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### School Court Partnership

Reviewing Education Records to Keep youth on track.

- Ask about school grades.
- Inquire as to whether or not there is an IEP or 504 plan.
- Do they have any counseling at school?
- Are they involved in any school activities?
- Is the parent or guardian involved in the youth's schooling?



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### School Court Partnership

- What is the school's zero tolerance policy?
- Discuss that policy with the school administration and other community leaders to keep a check on whether or not that is helping the youth – is it making the school and community safer?
- How many youth with mental health or behavioral issues would be better served if they were allowed to remain in school.
- Are there other types of sanctions or programs that the community or court can provide in lieu of expulsion.

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### School Court Partnership

- Team approach in Education and Case planning.
- Assure all parties, including the youth, the family and the school personnel that they will all be listened to and their input is important for the Court to make good decisions.
- If a youth is failing in school – what will it take to get them a fresh start? Will the GAL be able to help with educational advocacy?
- Bring all of the parties together to address the educational needs of the youth.

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### School Court Partnership

- Work to ensure accountability and information sharing.
- Make sure that all systems that serve the youth are communicating and sharing information for the benefit of the youth and the community.
- Tapping into all of the available community resources will result in the best outcome for the youth.
- Hold all of those system partners and the youth accountable.

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### School Court Partnership

- Support positive educational outcomes by emphasizing school and school programs in court.
- Expect the best and support the programs that support the youth.
- Plan big and then help the team figure out how to make it happen.
- Appoint dedicated attorneys, GALs and advocates to move the case and mission forward.



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### School Court Partnership – Panel Discussion

- Let's now turn to our panel of experts and ask them how they approach these issues.
- We know that no one has all of the answers, but we hope that this panel will give us some good advice and suggestions for your court and community.
- We will start it off with a few questions, but feel free to jot your question down on the index cards on your table and we will ask your questions too.
- Also, please join in the conversation with your own good ideas!

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**Panel Discussion**

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