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504 and IEP Planning for Foster Youth and System-Involved Children

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1. Introduction

Approximately 369,000 children were in foster care in the United States on the last day of fiscal year 2022 (U.S. Department of Health and Human Services, 2023). These youth face compounded challenges: educational disruption, separation trauma, and elevated rates of identified disabilities. Research indicates that children in foster care are 2.5 to 3.5 times more likely than peers to receive special education services—between roughly 36% and 47% do so—and experience developmental delays at four to five times the general-population rate (National Working Group on Foster Care and Education, 2018; Trout et al., 2008).

Yet paradoxically, these same students are frequently underidentified for formal services. Frequent school transitions, fragmented health records, and the lack of consistent caregivers to advocate in educational meetings create systemic barriers to timely evaluation and appropriate accommodations. This white paper examines the intersection of disability and child welfare law, clarifying when and how Section 504 plans and Individualized Education Programs (IEPs) apply to foster youth, and providing practical guidance for clinicians and educators collaborating to support these vulnerable learners.

2. The Intersection of Disability and Child Welfare

Foster care itself is not a disability category under the Individuals with Disabilities Education Act (IDEA), nor is maltreatment history automatically a qualifying condition. However, the experiences associated with child maltreatment and removal—trauma, neglect, attachment disruption—frequently manifest in ways that meet disability criteria.

2.1 Trauma and Its Educational Manifestations

Complex trauma from abuse or neglect can present as attention difficulties, emotional dysregulation, or behavior that mimics ADHD

or emotional-behavioral disability (EBD). Studies using neuroimaging have documented altered brain development in maltreated children, particularly in regions governing executive function and emotional regulation (Teicher & Samson, 2016). These neurobiological changes are real, measurable, and educationally relevant. When trauma-related symptoms significantly impact learning or behavior at school, they may qualify a student for protection under IDEA or Section 504, depending on severity and functional impact.

2.2 Reasonable Grounds for Referral

Federal law requires that all suspected disabilities be referred for evaluation. For foster youth, potential indicators include: documented abuse or neglect history; behavioral or emotional concerns documented by caregivers or clinicians; school attendance or academic engagement problems not otherwise explained; previous evaluations or services in prior placement; and reports from child welfare workers about developmental or medical concerns. IDEA's Child Find mandate requires that all children suspected of having a disability be identified, located, and evaluated (34 C.F.R. § 300.111).

3. Understanding 504 Plans and IEPs: Key Differences

Both Section 504 plans (under the Rehabilitation Act of 1973) and Individualized Education Programs (under IDEA 2004) provide legal protections and accommodations for students with disabilities. However, they differ significantly in scope, eligibility, and procedures.

Feature	**Section 504**	**Individual Education Plan (IEP)**
Law	Rehabilitation Act (1973)	IDEA (2004)
Eligibility	Any disability that substantially limits a major life activity	13 specific categories; requires special education need
Services	Accommodations in general education	Special education instruction + related services
Due Process	Informal; less procedural oversight	

	Formal; detailed procedures and safeguards

For foster youth, both pathways are important. A child with a documented learning disability or speech-language impairment typically qualifies for an IEP. A child whose primary need is accommodation rather than specialized instruction—such as reduced homework due to frequent moves, or untimed testing due to anxiety—may be best served by a 504 plan.

4. Documentation Requirements for Foster Youth

Effective special education planning for foster youth hinges on accessing and coordinating documentation across multiple systems. Child welfare records, health files, previous school records, and clinical assessments often exist in silos, creating gaps that delay identification and service.

4.1 Multi-System Documentation

Essential records include: court documents documenting abuse/neglect allegations and legal status; child protective services assessments documenting developmental and behavioral concerns; medical and mental health evaluations; psychological or psychoeducational testing; and cumulative educational records from previous schools. Federal regulations require that evaluations use a variety of assessment tools and strategies, draw on multiple sources of information, and be sufficiently comprehensive to identify all of the child's special education needs (34 C.F.R. §§ 300.304–300.306). For foster youth, "current" is particularly critical—a cognitive assessment from age 6 is not sufficient to establish present functioning at age 10.

4.2 Coordinating Assessment Across Agencies

Schools and child welfare agencies have different mandates, timelines, and assessment tools. A psychological evaluation conducted by a child welfare clinician may document trauma symptoms but not academic performance. A school psychologist may assess learning disability but lack contextual information about the child's history. Effective practice requires explicit coordination: requesting existing evaluations from child welfare; clearly communicating what the school evaluation will assess; and ensuring findings are shared across systems with appropriate consent.

The Family Educational Rights and Privacy Act (FERPA) and state child welfare confidentiality laws both apply. Written consent from the child's legal guardian (the state, in foster care) is required to exchange records. This should be requested proactively at the time of enrollment or referral for evaluation.

5. Coordination Between Clinicians and Educators

Research and policy guidance on educational outcomes for foster youth consistently emphasize the critical role of coordinated, cross-system care (Zetlin et al., 2004; National Working Group on Foster Care and Education, 2018). Educational professionals, clinicians, and child welfare workers bring distinct expertise. Clinicians understand trauma, attachment, and mental health treatment. Educators understand academic skill development and classroom accommodation. Child welfare workers understand the legal system, permanency planning, and family dynamics. Siloed decision-making limits effectiveness.

5.1 Information Sharing and Confidentiality

The cornerstone is informed, documented consent. At the time of school enrollment or evaluation referral, the educational team should request explicit permission from the child's legal guardian (usually the state child welfare agency) to share relevant information with clinicians, and permission from clinicians to share relevant clinical information with the school. This should specify which individuals or agencies can receive information, what information will be shared, and for what purposes. Annual review of these consents is recommended, particularly if the child's placement changes.

5.2 Communication Protocols During Educational Planning

IEP and 504 meetings should include relevant clinicians or, at minimum, documented information from them. A trauma-informed clinician can contextualize why a child may present as oppositional or inattentive, helping educators recognize these as trauma-related rather than willful misbehavior. Similarly, teacher observations about academic performance, peer relationships, and classroom motivation provide essential data about functional impact that clinicians need for treatment planning.

Best practice includes: sending clinical summaries to the school prior to meetings; inviting clinicians to attend IEP/504 meetings when feasible; documenting clinical input in meeting minutes; and providing clinicians with copies of the finalized plan and progress monitoring data. When attendance is not possible, documented clinical input—in the form of a written summary or video conference—should substitute.

6. Surrogate Parents and Educational Decision-Making

IDEA requires that each child with a disability have a "parent" representative in special education decision-making. For children in foster care, the biological parents typically no longer have educational decision-making authority. Federal law permits states to appoint a "surrogate parent"—a trained individual unrelated to the child who advocates for the child's educational interests (34 CFR §300.519).

Surrogate parents should be selected based on their knowledge of the child and ability to advocate effectively. Best practice involves child welfare workers, clinicians, or other individuals who have meaningful contact with the child and can reliably participate in meetings. The school is responsible for identifying and training surrogates when the child's natural parents are unavailable or their parental rights are terminated. For many foster youth, an involved foster parent or relative serving as informal guardian can effectively serve this role with minimal formal designation.

7. Ensuring Continuity Across Placements

Foster youth experience frequent school transitions. Research indicates that children in care change schools far more often than their peers, with placement entries and placement changes driving the elevated school mobility (Smithgall et al., 2004). Each transition risks educational progress loss and service disruption. Proactive planning for continuity is essential.

7.1 Planning for Likely Transitions

When a child's placement is anticipated to change, the current IEP/504 team should explicitly address what will transfer to the new setting. This includes: a portable copy of all evaluations and supporting documentation; a written transition summary documenting current progress, accommodations in use, and recommendations; contact information for clinicians, child welfare

workers, and previous service providers; and, ideally, a meeting between current and receiving school staff to review the plan.

7.2 Preventing Lost Educational Records

A systemic vulnerability for foster youth is the loss or fragmentation of educational records across placements. Schools rarely follow up proactively to obtain prior records when enrollment is brief or placements are unstable. To mitigate this: the school should maintain a comprehensive file with all evaluation data, IEP/504 documents, progress monitoring data, and contact information; a copy should be provided to the child welfare worker or the child's caregiver at time of placement change; and electronic transmission to the receiving school should occur within 10 school days. The child welfare agency can facilitate this by maintaining a single repository accessible to all schools the child attends.

8. Implications for Practice

Five key recommendations emerge from the intersection of research and law:

- Assume capability, but assess carefully. Foster youth require the same rigorous, individualized assessment as any student. Use multiple data sources, updated evaluations, and be alert to trauma-related presentations that may differ from typical disability profiles.
- Prioritize early referral. The presence of documented abuse, neglect, multiple placements, or behavioral concerns warrant referral for evaluation. Waiting for academic failure to accumulate delays necessary services.
- Establish cross-system communication. Explicit consent, documented information sharing, and regular communication between educators and clinicians improve both educational and mental health outcomes.
- Plan for transitions proactively. Document accommodations, provide written summaries, and ensure receiving schools have complete prior records. Build relationships with receiving schools and clinicians to support continuity.
- Center the child's voice. To the extent developmentally appropriate, involve the child in educational planning. Solicit their input on accommodations that work, concerns about new schools, and educational goals. Foster youth often have limited control over major life decisions; educational planning offers an opportunity to include them meaningfully.

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