

## TIPS FOR LAWYERS

### Attorney Checklist Cheat Sheet: Education for Older Youth

#### Enrollment, School Stability & Class Placement

- ☑ If your client has reached 19 years of age, and has not accrued sufficient credits to graduate by the time s/he turns 21 years old, the school s/he attends or in which s/he is enrolling, may place your client in an alternative school setting. That means if your client has accrued enough credits to graduate by 21 before the age of 19, they should be allowed remain/continue in the regular education setting. C.G.S.A. § 10-220 (a).
- ☑ Your client also has the right to school stability—meaning if s/he is committed to DCF and moves to a different town, s/he has the right to remain in the school of origin. The best interests of the child guide the decision whether to change schools. Any party may object to the decision to change the child's school placement within three business days after receipt of such notice. DCF shall hold an administrative hearing within three business days after the objection. C.G.S.A. § 17a-16a.
- ☑ If your client is released from USD # 2, s/he should be permitted automatic reenrollment in the school in which s/he was previously enrolled (provided that school has the appropriate grade/class placement). C.G.S.A. § 10-186 (e). If your client is moving to a new town, they will have to complete the enrollment process. In either case, however, it is the new schools responsibility to notify the old school that your client's records are needed and those records should be transferred within 10 days. C.G.S.A. § 10-220h.
- ☑ Your client may be entitled to go to a different school than his/her "home school" in certain circumstances (e.g. safety issues, if your client has a disability and would be better served in a different placement, etc.) NCLB, 34 C.F.R. § 300 et. seq.

#### Surrogate Parent

- ☑ If your client is committed to DCF and is already identified for special education or is potentially eligible for special education, s/he is entitled to an educational surrogate (also called a surrogate parent). DCF should make the referral for the surrogate. C.G.S.A. § 10-94g.
- ☑ If your client is not yet identified for special education, you may need to make the referral for a surrogate. When appointed the surrogate can assist with requesting special education referral and evaluation. The State Department of Education has a roster of surrogates who are trained in educational advocacy. The contact person is Norma Sproul ([norma.sproul@ct.gov](mailto:norma.sproul@ct.gov) or (860)713-6936).
- ☑ Even after your client turns 18, the surrogate can remain on the case as long as your client consents to it.

- ☑ If your client is under protective supervision and remains in the home with a parent or guardian, s/he is not eligible for a surrogate. The parent or guardian maintains educational decision making rights.
- ☑ It is still important for attorneys to participate in the special education process regardless of surrogate or parent involvement to help ensure your client's wishes are at the forefront of the decision-making process.

### **Academic Progress and Need for Interventions**

- ☑ You will need a release to access your client's educational records from the client, the parent, the surrogate or DCF, depending on your client's status.<sup>1</sup> 34 C.F.R. §§ 99.4, 99.5.
- ☑ Finding out what your client's grades are, how many credits s/he has earned, and whether there are attendance and/or discipline issues can help determine whether your client needs additional or different supports, including a referral to special education.
- ☑ If your client does not yet receive special education, you may request interventions through regular education or you may request a PPT for referral to special education. 34 C.F.R. §§ 300.21, 300.24; C.R.S.A. §§ 10-76d-7, 10-76d-10, 10-76d-12.
- ☑ If your client is already identified as special education, you may request a PPT to review his/her program and suggest changes. 34 C.F.R. § 300.24; C.R.S.A. §§ 10-76d-10, 10-76d-12.

### **Special Education Services & 504 Accommodations**

- ☑ If your client does not qualify for special education, but has a documented medical /mental health diagnosis that substantially limits him/her in school, s/he may be entitled to accommodations under Section 504 of the Rehabilitation Act. Provide the documentation to the school and request a 504 meeting to develop a plan. The documentation/diagnosis may not itself be sufficient to establish the need for accommodations and further evaluation may be required. 34 C.F.R. § 104.31-37.
- ☑ If your client is not progressing despite the implementation of the IEP/504 plan, you may call a meeting to review it and request changes. If the school does not agree with the changes you request for your special education client, you have a right to request voluntary mediation or file for due process. 34 C.F.R. §§ 300.506-.507, 300.511; C.R.S.A. §§10-76h-3, 10-76h5. You have a right to request a 504 hearing for your client. 34 C.F.R. § 104.36.
- ☑ If the school is not following your client's IEP, you may choose to file a complaint with SDE Bureau of Special Education through their complaint resolution process. 34 C.F.R. §§ 300.151-153.
- ☑ By law, special education students must be evaluated every three (3) years. If you think your client needs additional or further assessment, you may request this through the PPT. 34 C.F.R. § 300.303; C.R.S.A. § 10-76d-9. You may also disagree with any evaluation completed by the school and request an independent educational evaluation (IEE) and the school's expense. 34 C.F.R. § 300.502; C.R.S.A § 10-76d-9.

---

<sup>1</sup> Parents or guardians of a student with a disability (or suspected of having a disability) are afforded the right to review the child's educational records promptly. 34 C.F.R. §§ 300.501, 300.613. C.R.S.A. §10-76d-18.

### **Graduation & Transition Planning**

- ☑ If your client has been in multiple placements, including attending school through USD#2, make sure your client receives credit from all prior placements. The sending school should generally make a credit recommendation to the receiving school, however the receiving school must award the credits and makes the ultimate determination. C.G.S.A. §§ 10-220h, 10-221a.
- ☑ Special education students with enough credits to graduate may choose to participate in graduation ceremonies with peers, but may defer receipt of diploma to continue working on transition goals. C.R.S.A. § 10-76d-1.
- ☑ Transition goals should be based on current, individualized assessments of your client's needs (vocational, independent living, life skills, post-secondary education, etc.) 34 C.F.R. § 300.321(b).

### **Post-Secondary Planning**

- ☑ If your client is committed to DCF, DCF has an obligation to initiate post-secondary education planning with youth during their junior year. A post-secondary education plan must be developed. A DCF Post-Secondary Education (PSE) consultant will review the plan, provide feedback as to the appropriateness of the plan or suggest modifications. DCF Policy 42-20-20.
- ☑ DCF will fill out the FAFSA with all committed youth who are interested in pursuing PSE.
- ☑ If your client has an IEP or 504 plan and s/he is planning to go to college, make sure that your client has this documentation and any related evaluative documentation so that s/he may access accommodations at the post-secondary level. 34 C.F.R. §§ 104.41-47. Your client should be proactive in presenting this information to the disability coordinator at the school.