

# Educational Rights for Foster Youth

(Revised 02/06/26)

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## Related Policies

Additional information can be found in the following policies:

- Education of Foster Youth
- Ex Parte Requests
- Court-Appointed Special Advocates - CASAs (Voices for Children)
- Special Education - Surrogate Parents

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## Forms

The following forms are referenced in this policy:

- [JV-535\(A\)](#) Attachment to Order Designating Educational Rights Holder
  - [JV-535](#) Order Designating Education Rights Holder
  - 04-95 Best Interest in School of Origin Decisions: A Checklist for Decision Making (01/22)
  - [JV-537](#) Educational Rights Holder Statement
  - [JV-536](#) Local Educational Agency Response to JV-535—Appointment of Surrogate Parent
  - 04-251 Notice to Court of Confidential Address/Initial Out of Home Address
  - 04-92 School Notification (CWS/CMS template)
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**Resources**

The following resources are referenced in this policy:

- Educational Stability for Foster Children (Brochure)
- Educational Stability for Children in Foster Care (Spanish Brochure)
- [The California Foster Youth Education Resource Hub](#)

**Policy**

Parents/legal guardians are the legal Educational Rights Holders (ERH) and development services decision makers for their child/youth. They are legally responsible for making decisions regarding school, education, and/or developmental services.

The Court may limit the parent/legal guardian’s right to make educational and developmental services decision-making rights and appoint an ERH and developmental services decision maker, if/when appropriate, and when it is in the child/youth’s best interest to ensure that the child/youth’s educational and developmental needs are met.

**As a reminder, SWs must submit the School Notification (04-92) form when any of the following applies for children/youth in Pre-K to 12<sup>th</sup> grade:**

- change of placement (including out of county)
- change of ERH
- detained/removed from home
- case opens
- placed in a voluntary out of home placement,
- new school enrollment,
- change of caregiver
- trial visit/ reunification,
- case closes

Send to Foster Youth Services Coordinating Program (FYSCP) Educational Liaison **and** minor’s attorney with “School Notification” in the subject line of the email. Refer to the CLS directory. Refer to [Education of Foster Youth](#) policy for more information.

**Court Limiting Parents/Guardian’s Educational/ Developmental Services Decision-Making Rights**

The table provides guidance on Court limiting parents/guardian’s educational/ developmental services decision-making rights:

Case Status	When Court may Limit Educational/Developmental Service Decision Making Rights
Prior to disposition	<i>Welfare and Institutions code section 319(j)(1) states the following on when the court may limit the parent/legal guardian’s educational and developmental services decision-making rights prior to disposition:</i>

**Court Limiting  
Parents/Guardian’s  
Educational/  
Developmental  
Services Decision-  
Making Rights  
(cont.)**

Case Status	When Court may Limit Educational/Developmental Service Decision Making Rights
Prior to disposition (cont.)	<p>“(1) At the initial hearing upon the petition filed in accordance with subdivision (c) of Rule 5.520 of the California Rules of Court or anytime thereafter up until the time that the minor is adjudged a dependent child of the court or a finding is made dismissing the petition, the court may temporarily limit the right of the parent or guardian to make educational or developmental services decisions for the child and temporarily appoint a responsible adult to make educational or developmental services decisions for the child if all of the following conditions are found:</p> <ul style="list-style-type: none"> <li>(A) The parent or guardian is unavailable, unable, or unwilling to exercise educational or developmental services rights for the child.</li> <li>(B) The county placing agency has made diligent efforts to locate and secure the participation of the parent or guardian in educational or developmental services decision making.</li> <li>(C) The child’s educational and developmental services needs cannot be met without the temporary appointment of a responsible adult.”</li> </ul>
For youth at or after disposition	<p><i>WIC 361(a)((1) states the following on when the court may limit the parent/legal guardian’s educational and developmental services decision-making rights for youth at or after disposition:</i></p> <p>“In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent, guardian, or Indian custodian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent, guardian, or Indian custodian to make educational or developmental services decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child...”</p>

**Should there be concerns surrounding the child/youth’s current ERH/ developmental services decision-making rights holder, the SW will consult with their supervisor and the Child and Family Team (CFT) and utilize statutes above as a guideline to consider recommending that a new ERH/ developmental services decision-making rights holder be appointed.**

**NOTE:** Per [All County Letter No. 22-73](#), the youth's court-appointed educational rights holder must be invited to CFT meeting(s), if they are someone other than the parent, guardian, Indian Custodian, or caregiver, in cases during which the team will develop and implement a placement preservation strategy, and/or discuss the possibility of a placement change.

**Educational/  
Developmental  
Services Decision-  
Making Rights  
Holder  
Representative**

When recommending limiting the parent/legal guardian's ERH and developmental services decision-making rights and determining an educational/developmental representative, the SW will develop the recommendation based on the following order of priority:

1. Child/youth's caregiver (except Short Term Residential Therapeutic Program (STRTP) staff)
2. An appropriate relative or other adult such as a mentor or a non-related extended family member with whom the child/youth is not placed
3. A Court Appointed Special Advocate ([Court-Appointed Special Advocates - CASAs \(Voices for Children\)](#)), or
4. Request the school to appoint a surrogate parent (appropriate only for children/youth who may be eligible for special education services or who already have an Individualized Education Plan (IEP), and no other appropriate adult exists). Refer to [Special Education - Surrogate Parents](#) policy for further guidance.

Often, a child/youth's current caregiver will be appointed as the ERH/developmental service decision making rights holder. If a child/youth changes placement, SW will assess what is in the best interest of the child/youth in deciding to change ERH/developmental service making decision rights holder.

If someone other than a caregiver is appointed to hold these rights, it is imperative that both the educational /developmental services decision maker rights holder and caregiver collaborate/communicate regarding the child/youth's education progress and needs.

However, according to section §49069.3 (c) of the Education Code:

(1) If direct communication between a caregiver and an educational rights holder is appropriate, a caregiver who is not the pupil's educational rights holder shall notify the pupil's educational rights holder of any educational needs of the pupil that require the educational rights holder's consent or participation, including, but not limited to, school placement decisions, decisions on whether to invoke or school of original rights, consent for special education assessments and individualized education programs, meetings or hearings regarding attendance or discipline, and decisions regarding graduation. In instances involving significant discipline or discipline that potentially impacts a pupil's continued enrollment and progress in school, the caregiver shall also provide the same information to the pupil's social worker as is provided to the educational rights holder.

(2) If direct communication between a caregiver and an educational rights holder is inappropriate, the pupil's social worker shall direct the caregiver to communicate the information specified in paragraph (1) with the pupil's social worker or attorney instead of the educational rights holder.

SW staff should share the [Educational Stability for Foster Children](#) with parents and any potential ERHs to remind them the importance of educational stability and answer any questions.

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**Education Rights  
Holder Program  
(ERHP)**

The ERHs under this Memorandum of Agreement (MOA) are student volunteers from the USD School of Law who will serve as ERH on a short-term, temporary basis until a permanent ERH can be appointed or education rights are transferred back to the parent(s) of the student in foster care in appropriate cases and considered on a case-by-case basis. To serve as an ERH through the ERHP, an individual must meet the following requirements:

- Be at least 18 years old
- High school diploma or equivalent
- Completed application
- Completed background check
- Pre-service training
- Court appointment

As the ERH, these volunteers will:

- Be invited to all school related activities for the child
- Receive school related records
- Be able to attend court hearings, if it relates to school/education needs.

As the ERH, the volunteer acts as and holds the rights of the parent or guardian with respect to all decisions regarding the child/youth's education and developmental services, and has the authority and responsibility to make decisions that ensure:

- The stability of the student's school placement;
- Placement in the least restrictive educational program appropriate to the student's individual needs;
- The student's access to academic resources, services, and extracurricular and enrichment activities;
- The student's access to any educational and developmental services and supports needed to meet state standards for academic achievement and functional performance or, with respect to developmental services, to promote community integration, an independent, productive, and normal life, and a stable and healthy environment;
- The prompt and appropriate resolution of school disciplinary matters;
- The provision of any other elements of free, appropriate public education; and
- The provision of any appropriate early intervention or developmental services required by law, including the California Early Intervention Services Act or the Lanterman Developmental Disabilities Services Act.

While acting in the capacity as an ERH, the volunteer may establish a positive relationship with the child/youth. The volunteer may:

- Maintain contact with the students as an ERH
- Contact Foster Youth Mentor Program, if they're interested in becoming a mentor, after they end their role as the student's ERH.

The volunteer ERH will immediately notify the student's assigned SW and attorney if the individual can no longer hold education rights.

SWs are reminded of the priority of education rights holders:

- Parent(s)
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**Education Rights Holder Program (ERHP) (cont.)**

- Caregiver
  - Relative
  - NREFM/Significant Adult
  - CASA
  - District Surrogate, if child/youth has an IEP
  - Court
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**How to Request a Volunteer ERH**

As soon as it is determined that a child/youth’s educational rights holder cannot be identified, the child/youth’s assigned SW will contact their region’s [School Success Education Liaison](#) to request a volunteer ERH.

SWs will continue to look for a permanent ERH. SWs will also submit completed JV-535 and JV- 535(A), within 14 days when:

- a volunteer ERH is identified,
  - an ERH changes,
  - a permanent education rights holder is identified.
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**Who Cannot Be Appointed to Make Educational or Developmental Services Decisions**

An individual who would have a conflict of interest (e.g. a person who is paid to represent the child/youth such as the child/youth’s SW, attorney, therapist or psychiatrist) cannot be an ERH and/or developmental services decisions maker.

**NOTE:** Caregivers, except for STRTP staff, are not considered as paid to represent the child/youth since payments to caregivers are for the child/youth’s needs.

STRTP staff may have a conflict of interest, especially if STRTP also operates a school facility. Thus, STRTP staff shall not be appointed education rights holders or appointed to make developmental services decisions.

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**Nonminor Dependents (NMDs)**

Nonminor dependents (NMDs) can hold their own rights to make educational and developmental-services decisions, unless rule 5.650(b) of the California Rules of Court applies. This rule states the court may appoint or continue the appointment of an educational rights holder to make educational or developmental services decisions for a NMD if:

1. The youth has chosen not to make educational or developmental services decisions or is deemed by the court to be incompetent; and
2. With respect to developmental services decisions, the court also finds that the appointment or continuance of a rights holder would be in the best interests of the youth.

The following individuals may be considered as potential educational or developmental rights holders for NMDs:

- Caregiver
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**Nonminor  
Dependents (NMDs)  
(cont.)**

- Relatives/NREFM
- Conservator or
- CASA

**NOTE:** CASAs may hold rights for NMDs, only if the NMDs agree to continue with a CASA. SWs, attorneys and STRTP staff are **not** permitted to hold educational or developmental services decision-making rights for NMDs.

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**Court Report  
Content  
Requirements**

Whenever a child/youth is placed in out-of-home care, or experiences a change of placement (COP), the child/youth has a right to remain at their School of Origin (SOO).

The Social Worker (SW) must document in the Educational Section of the court report whether the child/youth will remain in the SOO or will change schools. If the child/youth will not remain in their SOO, the SW must discuss why it is in the best interest of the child/youth to change schools and document the ERH's agreement with the change in school.

SW should use [Best Interest in School of Origin Decisions: A Checklist for Decision Making \(04-95\)](#) when discussing a potential change in school with the ERH (Refer to [Education of Foster Youth](#) policy for more information).

SWs must include a factual statement as to whether the parent/guardian's right to make educational and developmental services decision-making rights for the child/youth should remain or be limited in the Educational Section of every Jurisdiction/Disposition Hearing Report and in every subsequent Status Review Hearing Report. **If the SW is recommending that the parent/guardian's rights will be limited and a JV-535 and JV- 535 (A) is being filed, the SW must indicate who will be holding these rights.**

While the JV-535 and JV-535(A) are **not** attachments to **calendared court reports**, (see **Filing Initial JV 535/ JV 535 (A)** Section) the education section of the court report will inform the court when a JV-535 and JV-535(A), any of their attachments are filed alongside the report, and who the agency is recommending to hold educational/developmental services decision making rights. Include one of these statements when filing a JV 535 and JV- 535(A):

*"The JV-535 and JV 535(A) are filed alongside this report. The agency is recommending that [Insert Name], [Insert Relationship], should hold educational and developmental services decision-making rights."*

Or (delete items not applicable):

*"The JV-535 and JV 535(A), JV-536 and 04-251 Notice to Court of Confidential Address form are filed alongside this report. The agency is recommending that [Insert Name], [Insert Relationship], should hold educational and developmental services decision-making rights."*

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**Completing the JV-535 and JV-535 (A)**

The JV-535 Order Designating Education Rights Holder and JV- 535(A) Attachment to Order Designating Educational Rights Holder and any other additional attachments must be completed whenever recommending to limit, modify, or restore a parent’s education or developmental services decision-making rights for out-of-home children/youth. When making recommendations to appoint an educational and/or developmental services decision-making rights representative or changing an educational representative the SW must:

Step	Action
1	<p>Complete all sections of the JV-535 and JV- 535(A) (and JV-536 Local Educational Agency Response to JV-535—Appointment of Surrogate Parent, if appropriate)</p> <ul style="list-style-type: none"> <li>• <b><u>If the ERH’s information is confidential only include their first name and last initial.</u></b> All other Confidential information should <b>NOT</b> be included on the JV 535 and JV- 535(A). Confidential information should <b>only</b> be provided to the court via the 04-251 Notice to Court of Confidential Address/Initial Out of Home Address. See <a href="#">Confidential Information to Court</a> section for more information.</li> </ul> <p><b>Tips for completing the JV-535 and JV- 535 (A):</b></p> <p><b>JV-535</b></p> <ul style="list-style-type: none"> <li>• #2: if confidentiality applies- check confidentiality boxes <b>and</b> the NOTICE box on the bottom of page 1. <b>NOTE:</b> Checking the confidentiality boxes is not a request for confidentiality, it is notifying the Court that the information is confidential and will not be provided on the JV-535.</li> <li>• #2: when appointing a <a href="#">volunteer ERH</a>, list the following address on the JV-535: <ul style="list-style-type: none"> <li style="text-align: center;">Children’s Advocacy Institute</li> <li style="text-align: center;">USD School of Law</li> <li style="text-align: center;">5998 Alcala Park</li> <li style="text-align: center;">San Diego, CA 92110</li> </ul> </li> <li>• #6 (on page 2): Check when changing an education rights holder or developmental services decision-making rights holder from a previous order, to ensure that any previous educational rights or developmental services decision-making rights holder is terminated.</li> </ul> <p><b>JV-535(A):</b></p> <ul style="list-style-type: none"> <li>• #2c: for the assigned Foster Youth Educational Liaison refer to District Foster Liaison Contact List or if it is a Charter School Charter Foster Liaison Contact List. If the charter school you are looking for is not on the list, contact SDCOE for assistance.</li> <li>• #3: in San Diego County it is: The San Diego Office of Education, 6401 Linda Vista Road, San Diego, CA 92111. For other counties you would have to research it.</li> </ul> <p><b>JV-535 AND JV-535A:</b> Any confidential information must be identified as “CONFIDENTIAL”.</p>

**Completing the JV-535 and JV-535 (A) (cont.)**

Step	Action
2	<ul style="list-style-type: none"> <li>• If needed, complete and attach a JV-536, along with the JV-535 and JV-535(A), when there is no responsible adult available and the SW is recommending the Court request the Local Educational Authority (LEA) appoint a surrogate parent for the child/youth with special education needs (see Court Appointed Special Advocate - (CASA) )</li> <li>• The LEA will complete the JV-536 to notify the Court and SW when a surrogate parent has been appointed.</li> </ul>

**Filing Initial JV-535/ JV-535(A)**

If filing...	Then
<p><b>at the time of calendared hearing</b></p>	<ul style="list-style-type: none"> <li>• SW will submit the JV-535 and 535(A) and any attachments (e.g. Notice to Court of Confidential Placement, JV 536) as a stand-alone document/packet that <b>must</b> be binder clipped to the Judge’s copy (one copy per child).</li> </ul> <p><b>NOTE:</b> The binder clip will alert the Judge that the JV 535 and JV 535(A) are being filed. Do not use a paperclip in order to avoid forms from coming loose from the report.</p> <ul style="list-style-type: none"> <li>• JV-535 and JV- 535(A) and any attachments will <b>NOT</b> be included in any calendared court report as an attachment.</li> </ul>
<p><b>outside of a calendared hearing</b></p>	<p>SW will submit the JV 535 / JV 535 (A) and any attachments via Ex Parte. Refer to <a href="#">Ex Parte Requests</a> policy for guidance on submitting Ex Parte request.</p> <p><b>NOTE:</b> SWs do not have to wait until the next subsequent review hearing for the court to appoint a new educational rights holder or return to the parent/guardian.</p>

**Filing Modification/  
Limitation/  
Restoration for  
Existing JV 535 /  
JV 535 (A)**

If there has been no request for modification, limitation, or restoration of educational or developmental-services decision making rights, or there are no required updates to contact or other information, there is no need to file a new JV-535 Order Designating Education Rights Holder.

**Reminder:** SWs do not have to wait until the next subsequent review hearing for the court to appoint a new educational rights holder or return to the parent/guardian, they can be submitted Ex Parte. Refer to [Ex Parte Requests](#) policy for guidance on submitting Ex Parte requests.

Following the dispositional hearing and each status review hearing, SWs must complete the JV-535 Order Designating Education Rights Holder, JV- 535(A) Attachment to Order Designating ERH, and any required **attachments if requesting a modification, limitation, or restoration of educational or developmental services decision-making rights**. Refer to [Completing a JV-535 and JV-535 \(A\)](#) section for instructions on how to submit forms.

If the SW is recommending a new ERH/ Developmental services decision maker to be appointed at a subsequent review hearing, the SW must:

- Specify if there is another responsible adult available to make educational decisions and/or make developmental services decisions for the child/youth and identify who the agency is recommending to hold these rights.
- The reason and supporting facts in the body of the court report under the Education Section.

**If a new JV-535 Order Designating ERH is filed, the most recent JV- 535(A) Attachment to Order Designating ERH must be attached.**

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**Confidential  
Information to Court**

The SW has the responsibility to protect the confidential name, address and phone numbers of an ERH/Developmental services decision maker when requested/appropriate.

If the ERH/Developmental services decision maker is confidential **only include their first and last initial on the JV-535 and JV-535 (A)**. SW will use the Notification to Court of Confidential Addresses (04-251), which **must be printed on pink paper, alerting the Court of confidential information**. Refer to types of hearing review for more information on submitting confidential information to the court.

The Notification to Court of Confidential Addresses (04-251) form **must** be the only place where confidential information is found and must not be in the body of court reports or attachments which are uploaded to the Justice Electronic Library System (JELS) and distributed to other parties in the case.

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**Distribution of Educational Rights Forms**

The table describes how to process and distribute the JV-535 Order Designating Education Rights Holder, JV- 535(A) Attachment to Order Designating Educational Rights Holder, JV-536 Local Educational Agency Response to JV-535—Appointment of Surrogate Parent, and JV-537 Educational Rights Holder Statement forms:

Step	Who	Action
1	Court	Sign the JV-535 and JV-535 (A) or receive the JV-536 from the LEA.
2	Court Clerk/Court Unit	<ul style="list-style-type: none"> <li>Review for any errors or confidential information, if an error is found return to SW or Court Unit (Court Unit will forward to SW).</li> <li>If there are no errors, skip step 3.</li> </ul>
3	SW	Correct errors and actively communicate with the Court Clerk and Court Unit on progress of corrections.
4	Court Clerk	<ul style="list-style-type: none"> <li>If errors were corrected, request the court sign the JV-535 and JV-535 (A) again.</li> <li>Email the authorized forms to the following:               <ul style="list-style-type: none"> <li>CFWB Education PA</li> <li>San Diego County Office of Education</li> <li>Court Unit</li> <li>All parties listed by SW on page 3 of the JV535 that include an email or mailing address for them (SW must provide signed copies to those listed with confidential addresses)</li> </ul> </li> </ul>
5	FYSCP	Forward JV-535 and JV-535(A) to the appropriate regional School Success Educational Liaisons
6	School Success Educational Liaisons	Send to HEP OA
7	HEP OA	<p>On the Enrollment Information page of the child/youth's CWS/CMS Education Notebook:</p> <ul style="list-style-type: none"> <li>check the corresponding box if the parents' rights to make education decisions were limited by the court</li> <li>add the date of the court order (the date the court signed the JV-535 and JV-535(A))</li> </ul>
8	Court Unit	Import JV-535 and JV-535 (A) into JELS

**Distribution of Educational Rights Forms (cont.)**

Step	Who	Action
9	SW	Provide signed copies to those listed with confidential addresses

Although the JV-537 is an optional form, educational representatives and surrogate parents use this form to communicate information to the court about the child/youth and if the educational representative/surrogate parent is resigning from their position. JV-537 may be forwarded to the HEP OA to update the education notebook.

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**Sharing Education Rights**

On a case-by-case basis, the volunteer ERH can share education rights with the child/youth’s parents or other responsible adults. SWs must assess the appropriateness of the sharing of education rights holder responsibilities among other responsible adults in the case.

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**Foster Youth Education Rights**

The California Foster Youth Education Task Force has created a summary of all the education rights outlined in the California Education Code sections pertaining to foster youth. Schools inform all students of their rights at the beginning of each school year and have posters on site to inform students. SWs can review them on the state [website](#).

Foster youth have the right to file a complaint if they believe their educational rights have been violated. For information about how to file a complaint, please visit the [CDE Uniform Complaint Procedures](#), or call the California Department of Education Coordinated School Health and Safety Office.

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**The California Foster Youth Education Resource Hub Webpage**

[The California Foster Youth Education Resource Hub \(“the Hub”\)](#), serves current and former foster youth, their caregivers, state and local child welfare agencies, state and local education agencies, as well as other partners who work with foster and probation youth in assisting them with their education related needs. SWs can share the Hub link as a resource in assisting foster/probation youth with their educational needs.

The Hub consists of a home page, side bar, and five subpages: School Readiness - Birth to Age 5, School Success K-12, College and Career Success, Youth Page, and Data and Information Sharing.

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**Alignment with SET**

This file aligns with SET [Value 3](#) “Helping Children And Youth Achieve Their Full Potential And Develop Lifelong Relationships” and the guiding principle to continually focus on children’s well-being while they are in care.

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