

# Legal Representation for Students in Foster Care FAQ

**Please Note:** OSPI does not provide legal advice and the discussion below is informational only. For advice pertinent to your specific situation, please consult your own legal counsel.

## Introduction

Having access to qualified legal representation can lead to better outcomes for students in foster care. Children represented by legal counsel experience the following.

- 65% reduction in the rate of unnecessary school moves.
- 40% more likely to leave the foster system within their first six months.
- 45% higher reunification rate with their biological parents.
- 30% reduction in the rate of placement moves.

## Background

Courts may appoint an attorney to provide legal representation for any child or youth in foster care. In 2021, the Legislature expanded a child's right to counsel in dependency proceedings (codified as [RCW 13.34.212\(3\)](#)). The [implementation](#) of this legislation is being phased in, county by county, for full implementation across the state by January 1, 2032.

## Attorney Responsibilities

Attorneys have an obligation to be informed about their clients' needs and current circumstances. For further information, please see Washington's [Rules of Professional Conduct](#) or consult the Washington State Bar Association's [Ethics Hotline](#).

Upon appointment as the legal counsel for a child or youth, duties of the attorney include:

- Maintaining frequent contact with the child, including in-person.
- Seeking appropriate supports or services to meet the child's needs, including ensuring that a child with special needs receives appropriate services.
- Reviewing records and meeting with individuals such as caregivers, school personnel, doctors, therapists, relatives, and other individuals with knowledge of the child.
- Participating in any court proceedings, depositions, and negotiations.



- Gathering and presenting to the court all facts that are relevant to the legally recognized rights at issue.

For questions regarding duties of counsel, you can reach out to Office of Civil Legal Aid (OCLA) via email at [crp@ocla.wa.gov](mailto:crp@ocla.wa.gov) or by phone at 360-515-2028.

## Frequently Asked Questions

### **Why do students in foster care need lawyers?**

Students in foster care who have legal representation have improved outcomes within the child welfare system. With legal counsel, they have a representative that can voice their wants and needs. The attorney is an added level of advocacy for the student to have educational stability through school of origin rights, immediate school enrollment, and timely evaluation for services. Additionally, the connections students have with their community that provide a sense of stability and safety are better maintained with legal representation.

### **Why are attorneys attending education related meetings?**

Attorneys representing students may attend education related meetings to engage the student, assess their educational needs, and support the importance of educational stability and success. Attorneys may also attend education meetings when there is an identified issue or needed support. If a student has an IEP or 504, an attorney may attend the IEP or 504 meeting.

### **When can I expect attorneys for students to show up at school meetings?**

A student's attorney may show up for education related meetings related to the Best Interest Determination, IEP or 504, discipline, transitions, and service and support.

Attorneys may also meet with the student in the school setting. Sometimes school is the only neutral space an attorney can confidentially communicate with a child in private. It could be appropriate for the school to provide space for the meeting.

### **How should a school respond to a request for records from a student's attorney?**

Schools should follow their established policies and procedures for responding to requests for educational records. Attorneys who are appointed to represent students who are in foster care also have access to educational documents through the child welfare agency.