Quick Turn Around

Project Forum

QTA – A brief analysis of a critical issue in special education

Foster Care and Children with Disabilities

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by Terry L. Jackson and Eve Müller

Overview

Children and youth in foster care are a vulnerable population. They are at a higher risk for abuse, neglect and permanent separation from birth parents and have a greater incidence of emotional and behavioral disturbances than their peers who are not in foster care (van Wingerden, Emerson & Ichikawa, 2002). Educationally, this group has a higher rate of absenteeism and tardiness and is more likely to repeat a grade and to be in special education (Smucket & Kauffman, 1996). Although several federal laws address the needs of children and youth in foster care (e.g., the Adoption Assistance and Child Welfare Act, Adoption and Safe Families Act and Child Abuse Prevention and Treatment Act) none specifically address the needs of children and youth with disabilities in foster care.

The purpose of this document is to:

- provide data on the prevalence of children in foster care who are also receiving special education services;
- summarize federal legislation that addresses the foster care system and children who are in foster care;
- describe how states are beginning to address the Child Abuse Prevention and Treatment Act (CAPTA);
- identify some of the barriers to providing appropriate educational services to school-aged children with disabilities in foster care; and
- suggest some next steps for meeting the educational needs of this population.

For the purposes of this document, Project Forum has adopted the following definition of foster care provided by the U.S. Department of Health and Human Services (HHS): "Twenty-four-hour care for children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes, but is not limited to, family foster homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes regardless of whether the facility is licensed and whether payments are made by the State or local agency for the care of the child, or whether there is Federal matching of any payments made."[1]

[1] Information retrieved on November 10, 2004 from www.acf.hhs.gov/programs/cb/dis/ncands98/glossary/glossary.htm.

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Prevalence and Other Pertinent Data

HHS collects information on children and youth in foster care through the Adoption and Foster Care Analysis and Reporting System (AFCARS) and tracks the following: number of children entering and exiting foster care; type of placement (e.g., non-relative foster family homes and group homes); permanency goals; outcomes (e.g., reunification and adoption); length of stay; and descriptive information such as age, race/ethnicity and gender of children. States submit data to AFCARS every six months. The estimated number of children in foster care in 2001 was 542,000 (National Clearinghouse on Child Abuse and Neglect Information - NCCANCH, 2003). Between 1998 and 2001, the number of children and youth entering foster care remained relatively stable, whereas the number exiting increased somewhat, leading to a slight drop in total numbers. The median age of children and youth in foster care in 2001 was 10.6 years (NCCANCH, 2003). In a similar period, thirty percent of all foster children were under the age of five (Dicker, Gordon, & Knitzer, 2002) and babies under three months of age were the most likely to enter care (Dicker & Gordon, 2004). Foster children were slightly more likely to be male (52 percent) than female (48 percent) (NCCANCH, 2003). Black children (38 percent of all foster children) received foster care in significantly disproportionate numbers (NCCANCH, 2003), as they comprise only 17 percent of the school-aged population (Office for Civil Rights, 2000). The breakdown for other groups was as follows: 37 percent of all foster children were white; 17 percent were Hispanic; and eight percent were other races/ethnicities (NCCANCH, 2003).[2]

In terms of academic outcomes, children and youth in foster care do not perform as well on standardized tests (Burley & Halpern, 2001; Smithgall, Gladden, Howard, Goerge & Courtney, 2004), have higher absentee and tardy rates (Altshuler, 1997), suffer from higher drop-out rates (Choice et al., 2001; Smithgall et al., 2004), have higher rates of suspension and expulsion (Smithgall et al., 2004) and are more likely to be retained in grade (Smithgall et al., 2004) than children and youth who are not in foster care.

Children and youth in foster care also receive special education services in disproportionate numbers. Estimates of the percentage of school-age children who are receiving special education services range from 30 to 45 percent (Smithgall et al., 2004; van Wingerden, Emerson & Ichikawa, 2002). In comparison, only 11 percent of *all* children aged 6 to 17 received special education services under Part B of the Individuals with Disabilities Education Act (IDEA) in the 2003 school year.[3] Furthermore, children in foster care are also approximately 15 times more likely to be identified with emotional disturbance (ED) than children who are not in foster care (George, Voorhis, Grant, Casey, Robinson, 1992). One study of students in the Chicago area found that nearly 20 percent of seventh and eighth graders in foster care were identified as

[2] In 2000, 62 percent of the total school-aged population was white, 17 percent Black, 16 percent Hispanic, 4 percent Asian Pacific Islander and 1 percent American Indian/Alaska Native (Office for Civil Rights, 2000).
[3] Information retrieved on January 27, 2005 from www.ideadata.org.

having ED, whereas only one to two percent of the overall student population was identified as such (Smithgall et al., 2004). This same study found that approximately 20 percent of students in foster care were classified with a specific learning disability (SLD), compared to only 12 percent of the overall public school population in Chicago.

Babies less than 12 months of age in foster care are also disproportionately likely to have disabilities. According to a document published by Zero to Three, over half of infants placed in foster care have developmental delays or disabilities (Dicker & Gordon, 2004). In comparison, only 2.24 percent of children ages birth through two years received special education services under Part C of the IDEA in the 2003 school year.[4]

Federal Legislation

There are four federal laws that pertain to this population of children, two of which explicitly address state and local foster care systems – the Adoption Assistance and Child Welfare Act of 1980 (AACWA) and the Adoption and Safe Families Act of 1997 (ASFA).

AACWA is designed to correct or alleviate problems in the foster care system and to promote permanent rather than multiple foster placements. According to NCCANCH (2003b), the goals and objectives of AACWA are to:

- prevent unnecessary separation of children from families;
- protect the autonomy of the family;
- shift the support of the federal government away from foster care alone and towards placement, prevention and reunification;
- promote the return of children to their families when feasible;
- encourage adoption when it is in the child's best interest;
- improve the quality of care and services; and
- reduce the number of children in foster care.[5]

Robinson and colleagues note that ASFA focuses on three priorities in the delivery of child welfare services – safety, permanency and well-being (Robinson, Rosenberg, Teele, Stainback-Tracy, Swope, Conrad & Curry, undated). While safety and well-being are equally important to child welfare, the emphasis on permanent placement has had the greatest impact on how child welfare agencies respond to cases of neglect or abuse. ASFA's guidelines require permanent placement within a specified timeframe for children under six years of age. As a consequence of this law, an increasing number of children are being adopted by their foster families or being placed in the permanent custody of relatives (Robinson et al., undated).

According to NCCANCH (2003b), the goals and objectives of ASFA are to:

- promote permanency for children in foster care;
- ensure safety for abused and neglected children;

[4] Information retrieved on February 1, 2005 from www.ideadata.org.
[5] Full text of the AACWA (P.L. 96-272) can be found at http://thomas.loc.gov/cgi-bin/bdquery/z?d096:HR03434:@@@D|TOM:/bss/d096query.html|.

- accelerate permanent placements of children;
- increase accountability of the child welfare system; and
- reduce the duration of a child's stay in foster care.[6]

The third law pertinent to children in foster care is the Keeping Children and Families Safe Act of 2003, signed into law on June 25, 2003. This law reauthorized and amended the Child Abuse Prevention and Treatment Act (CAPTA) of 1974. Although children and youth impacted by CAPTA are not necessarily in foster care, they are likely to be. This law requires each state to develop "provisions and procedures for referral of a child under the age of 3 who is involved in a substantiated case of child abuse or neglect to early intervention services funded under Part C of the Individuals with Disabilities Education Act" [P.L. 108-36 §106(b)(2)(A)(xxi)]. Infants and toddlers are currently one of the largest growing populations entering foster care (Dicker, Gordon, & Knitzer, 2002; Smucket & Kaufman, 1996). Over the past ten years, the number of children under five entering foster care has increased by 110 percent, in contrast to a 50 percent increase for all children (Dicker, Gordon, & Knitzer, 2002).

NCCANCH (2003b) identified the two primary goals and objectives of CAPTA as:

- increasing identification, reporting and investigation of child maltreatment, thereby protecting children from harm; and
- monitoring research and compiling and publishing materials for persons working in the field.

The 2004 reauthorization of the IDEA or the Individuals with Disabilities Education Improvement Act of 2004, signed into law on December 3, 2004, also includes language that is pertinent to this population. This law makes specific reference to children in foster care [P.L. 108-446 §631(a)(5)], foster parents [P.L.108-446 §602(23] and reinforces the CAPTA language:

> (G) there will be a referral for evaluation for early intervention services of a child who experiences a substantiated case of trauma due to exposure to family violence…[P.L. 108-446 §635(c)(2)].
>
> The [State] application shall contain…(6) a description of the State policies and procedures that require the referral of early intervention services under this part of a child under the age of 3 who – (A) is involved in a substantiated case of child abuse or neglect [P.L. 108-446 §637(a)].

The IDEA Conference Report language clarifies that the conferees intended that every child that fits the description above will be screened by a Part C provider or designee to determine whether a referral for evaluation for services under Part C is warranted and if warranted that a referral be made. The conferees did not intend to require that every such child receive an evaluation or Part C services (Congressional Record, 2004).

[6] Full text of the ASFS (P.L. 105-89) can be found at www.acf.hhs.gov/programs/db/laws/index.htm.

Impact of CAPTA

It is too early to assess the impact of the reauthorized CAPTA and IDEA on states. However, there is concern that CAPTA may increase the rolls of Part C programs and thus increase the need for qualified staff in an already understaffed area and the need for interagency program support (Rosenberg & Robinson, 2003). It is likely that new policies and procedures will have to be developed for screening children involved in substantiated cases of abuse or neglect and for evaluating and providing early intervention services, if needed. Staff development will be necessary to equip staff with the skills to address the unique issues related to abuse and neglect, and programs will have to ensure that social work and family counseling services are available (Rosenberg & Robinson, 2003).

In an effort to determine states' capacity to address the new CAPTA requirements, the IDEA Infant and Toddler Coordinators' Association summarized information available from 21 states in September of 2004.[7] At that time, nine of the 21 had existing procedures in place for referral of children involved in substantiated cases of abuse or neglect to Part C programs. Eight of the nine states were referring *all* such children to Part C programs, with screening being conducted by the Department of Social Services or Child Protective Services in two of the eight states. One additional state was referring *all* such children, although there were no agreed upon referral procedures in place. Discussions relating to policies and procedures were taking place in ten states and one additional state had discussions planned. Of the 21, two states had staff development planned and two states had data collection and/or tracking planned in place. There was no information available from 29 states.[8] Clarification provided by the recent IDEA Conference Report may assist states in developing and implementing screening procedures.

Barriers to Educational Services for School-age Children

Van Wingerden and colleagues (van Wingerden, Emerson, & Ichikawa, 2002) identified a number of barriers to meeting the educational needs of school-age children with disabilities in foster care. The following section summarizes their findings.

Systems Coordination – A lack of coordination between schools and the child welfare system (e.g., coordinated service delivery and cost sharing) makes it difficult to identify children in foster care who are in need of special education services, develop and implement individualized education programs (IEPs) in a timely fashion, advocate for children's needs, conduct transition planning and adequately attend to children's physical and mental health needs. Poor coordination stems in part from the fact that most special educators know very little about the foster care system and most child welfare workers know very little about special education services.

Tracking Children and Transferring Records – Children in foster care are a highly mobile population. This mobility frequently contributes to under-identification of educational

[7] Special thanks to Maureen Greer, consultant to the IDEA Infant and Toddler Coordinators Association, who provided Project Forum with this information.

[8] It is important to note that ITCA did not specifically request information from all states, but used information from extant sources. Therefore, it is possible that states are doing more than these data suggest.

disabilities, delays in evaluation for special education services, absenteeism, redundant assessments and services and lost or delayed transfer of records and IEPs.

Early Intervention Services – Although early intervention services are critical to helping children in foster care succeed academically, Part C services are vastly underused for children placed in foster settings.

Parental Role and Child Advocacy – Many children in foster care lack a knowledgeable, consistent and effective advocate for their special education needs. This results in part from confusion as to the roles of birth parents, foster parents, surrogate parents and social workers in the special education process. Social workers may also be left out of the IEP process, in spite of their access to pertinent background information about the child and family.

Young Adult Transition Services – Although both the education and child welfare systems provide services to assist young people transitioning to adult life, these services are rarely coordinated. This is an area of significant concern, since emancipation outcome data suggests that children who "age out" of the foster care system are more likely to drop out of high school, be unemployed and/or receive public assistance and experience homelessness.

Mental Health and Behavior Issues – As mentioned earlier, as a result of abuse, neglect and separation from birth families, children in foster care have a high incidence of emotional disturbance and social/behavioral problems. As many as two thirds of children in the foster care system are in critical need of mental health services. Failure to provide children in foster care with adequate mental health services may contribute to the high rate of suspension and expulsion noted above.

Participation in State Planning Efforts – Foster parents and representatives from the child welfare and judiciary systems rarely participate in state planning efforts to improve education results for all children, including those with disabilities, even though these are the people who know the most about how to meet the needs of children and youth in foster care.

Next Steps

In response to the barriers identified above, van Wingerden and colleagues (2002) generated a number of policy recommendations for improving educational services for children and youth with disabilities who are in foster care. The following recommendations for services and supports come from van Wingerden et al. (2002) and the authors of this document:

- include child welfare representatives and foster parents on state special education advisory panels;[9]

[9] The 2004 reauthorization of IDEA specifies that there must be at least one representative from the state child welfare agency responsible for foster care on the state Part C interagency coordinating council [P.L. 108-446 §641(b)(L)].

- explicitly link state special education, mental health, child welfare agencies and state Part C lead agencies through coordinated service systems activities that include case management, shared financing and interagency personnel development;[10]
- provide early intervention providers, teachers and related services personnel with the information/preparation necessary to work effectively with foster care families;
- develop statewide electronic databases that cross systems (i.e., education, social services, child welfare, health care, mental health and juvenile justice) with shared unique common identifiers for children;
- invite child welfare or social workers to IFSP/IEP meetings, particularly if they are knowledgeable about the child's developmental and social history;
- ensure that state parent centers (e.g., community parent resource centers and parent training and information centers) develop outreach strategies for reaching foster parents who have children with disabilities; and
- require that young adult transition planning and service delivery be coordinated with the child welfare system for all students in foster care.

Closing Remarks

Providing appropriate services to children and youth with disabilities in foster care is a difficult challenge. Although service coordination is required under Part C of the IDEA and the 2004 reauthorization of the IDEA requires at least one representative from the state child welfare agency responsible for foster care to take part on the state Part C interagency coordinating council, no federal policies require collaboration between schools, social services and child welfare programs for school-age children and youth. Currently, groups such as the Mid-South Regional Resource Center (MSRRC), National Early Childhood Technical Assistance Center (NECTAC), IDEA Infant and Toddler Coordinators Association and the Child Find community of practice are working together to examine how states are beginning to implement the requirements in the reauthorized CAPTA and IDEA. Such examination is an important step towards understanding how to better coordinate services for infants and toddlers in foster care.

For school-age children in foster care, efforts also must be directed at streamlining the identification of disabilities and providing special education services in a more timely manner. Steps must be taken by social service agencies and educational systems on both the state and local levels to collaborate and prevent the duplication of services, including the design/revision of policies to allow information sharing across agencies. Until then, children and youth with disabilities in foster care will continue to be under-identified and underserved.

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[10] Service coordination is already a required part of the Part C program.

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NASDSE, 1800 Diagonal Road, Suite 320, Alexandria, VA 22314
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