

Living a Normal Life

California Legislation Lifts Restrictions on Foster Children's Activities

- ✍ A 16-year-old foster youth who lives in a group home is not allowed to have a friend over to play video games because the friend has not had a criminal records check.
- ✍ A 17-year-old client is not allowed to attend her prom because her social worker told her that before she could go, her escort had to show proof of insurance. She was too embarrassed to ask him.

Foster youth often face restrictions that limit their ability to live normal lives. The examples above, among others, motivated the California legislature to pass legislation in January 2004 aimed at ensuring foster youth have quality lives. Assembly Bill 408, enacted January 1, 2004, "establishes the right of all foster children to live as normal a life as possible and participate in age-appropriate extracurricular, enrichment, and social activities." *CLP* spoke with Miriam Krinsky, Executive Director of the Children's Law Center of Los Angeles, which advocated for the legislation, about the importance of preserving quality of life for all youth in foster care.

What is quality of life for a foster child?

The aim should be to ensure that foster youth are able to live as normal a life as possible. This means allowing them to participate in normal age-appropriate extracurricular and social activities (birthday parties, school dances, movies, sporting events, etc.). They should not be constantly reminded that they are in foster care by restricting them from participating in activities that are available to other children. As child welfare professionals, we're committing to caring for all parts of foster children's well-being. However, too often the focus in child welfare is on safety issues without paying attention to what it means to be a child and the experiences that are necessary to promote a normal sense of childhood.

What prompted your Center to address quality of life issues through legislation?

We started hearing from our staff that their clients were being precluded from participating in normal activities. We asked our staff to start tracking examples and we found recurring problems in how regulations, laws, and policies are interpreted. For example, a caregiver was unwilling to sign a permission slip for her foster child to attend an activity because she thought she lacked the authority under agency regulations. Foster youth were often denied contact with friends or others. They were often singled out and not permitted to participate in activities, such as birthday parties, dances or Thanksgiving dinner, where others attending had not undergone criminal background checks.

What impact do these barriers to quality of life have on foster children?

The impact is immense. We're already dealing with children who have been traumatized, removed from their homes, and separated from siblings. Every anchor in their lives has already been uprooted. When we remind them that they're different and can't live a

normal life by participating in activities available to other children, we prevent them from growing up in a way that we would want our own children to grow up and develop.

California chose to address these barriers through legislation. What are the highlights of this legislation?

The law starts with the premise that foster children shouldn't be prevented from having a normal childhood and life. They should participate and be encouraged to participate in age-appropriate extracurricular and social activities. The legislature sent a message that foster children shouldn't be made to feel that foster care will prevent them from experiences available to all children. The law encourages developing policies to promote foster children's participation in age-appropriate extracurricular and social activities.

The law also sets standards and a guide for how caregivers should make decisions about what activities are appropriate and inappropriate. It empowers foster caregivers to make decisions about foster children's activities in the same manner as a prudent parent would. The law recognizes that the caregivers we authorize and pay to care for children in the child welfare system should exercise discretion and be entrusted with the same decisions that all parents make.

What steps are being taken to fulfill the law's requirements?

The Children's Law Center of Los Angeles is conducting training and outreach for the provider community. It is not the intent of the law that everything the child wants to do should be possible. The intent is to empower caregivers with the authority that all parents have to make decisions for the children in their care. They need to be able to say "yes" or "no" when appropriate. Without this authority, caregivers can't forge normal parent-child relationships with foster children. Our trainings help caregivers understand their decision making authority under the law.

We're also providing guidance to the child welfare department to help them inform social workers of the law's provisions. Social workers are required to monitor and report to the court regarding foster children's extracurricular activities. If barriers to participation exist, social workers are expected to let the court know about them and identify ways to address them.

There is also an effort underway to build a well-being component into contracts with providers. This creates an expectation that the foster care provider ensure foster children have access to normal extracurricular and social activities.

We all need to be proactive to ensure compliance with the law. When obstacles arise to a foster child's participation in activities, it is incumbent on the court and counsel for the child to require or authorize the youth's participation. If the law is being followed, court-ordered implementation shouldn't be necessary, but it is available as an enforcement mechanism.

In working to educate foster caregivers about their obligations under the law, are you finding they are cautious and hesitant to take on this new responsibility?

Changing attitudes is never easy and takes time. It's going to take time to move an entire system and caregivers away from the risk-averse approach that they are used to that promotes just saying "no" to foster children's requests. This approach insulates foster

caregivers from liability and risks. We're trying to work with caregivers and the child welfare community to underscore how to deal with risks and to emphasize the need to raise foster children the way all children are raised. We emphasize that saying "no" to every request is doing just as much harm as taking the risk that comes with permitting a child's activity. It's a process of education for everyone.

What can lawyers, judges, and child welfare caseworkers do to help fulfill the law's requirements?

All child welfare professionals should be identifying whether foster children are being provided access to age-appropriate extracurricular and social activities. We should be asking open-ended questions that probe into the child's activities and uncover barriers to participation. For example, advocates can ask:

- ✍ What sort of extracurricular activities are you involved in?
- ✍ Have you been encouraged to develop friendships through social activities?
- ✍ Are there activities you have been prevented from participating in because of your status as a foster child?

More than a year after implementation, are you seeing that the legislation is having an impact?

We recently surveyed our staff and asked for examples that were similar to the quality of life scenarios that initially prompted our work in this area. We really weren't hearing a chorus of problems this time.

We also asked a group of interns this past summer to sit in court for two weeks and monitor whether quality of life issues were being referenced in court and in court reports. We found that in over half of the cases, quality of life issues were being discussed—a very heartening finding.

I'm not sure what the impact looks like in other parts of California. Our work has focused on Los Angeles, where our Center is based. We have to get our own back yard in order before we can start addressing the issue in other parts of the state.

Do you have a sense of whether other states have implemented similar laws, or are addressing quality of life issues for foster youth creatively?

I don't know how or whether other states are addressing these issues. We have passed information about California's legislation on to other states. And I have heard anecdotally from other parts of the country that foster children are stripped of these rights. So my hope is that they are working to address that.

What advice do you have for other states interested in addressing quality of life issues for foster youth?

What was so successful with this effort was having examples to educate legislators and policymakers. Gathering real case scenarios gave us the ability to show through real life children and real life experiences what these issues mean and how they play out in day-to-day life.

Another key to success was partnering with former foster youth. We worked with former foster youth from the California Youth Connection (CYC), a wonderful organization of former foster children that co-sponsored the legislation. Having youth

from CYC go into legislative hearings to talk about their experiences and what they meant to them had a big impact. For example, one CYC youth testified about her experience as a young teen when she was required to get permission to date an individual in his 20s. The response to this teen's request was not what a parent would normally ask: "Why is the teen dating someone in his 20s?" Rather, the rote response was "He hasn't undergone a criminal background check." This young person's story drove home for the legislators the kind of restrictions and differing treatment imposed on foster children. Every one of the foster youth who shared their stories had more impact than 100 advocates would have had.

Sidebar:

California Assembly Bill 408: Highlights

Quality of Life: Establishes the right of all foster children to live as normal a life as possible and participate in age-appropriate extracurricular, enrichment, and social activities (WIC 362.05)

- ✍ State and local regulations may not prevent or create barriers to participation in these activities.
- ✍ Each state and local entity shall ensure that the private agencies providing care to foster children have policies that promote and protect the ability of children to participate in age-appropriate extracurricular, enrichment and social activities.
- ✍ Caregivers have an obligation to allow children in their care to participate in age-appropriate extracurricular, enrichment and social activities.
- ✍ Caregivers are expected to make normal day-to-day parenting decisions and are to act as a prudent parent in determining whether to give permission for a child to participate in any of these activities. In particular, caregivers shall take reasonable steps to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.