

At Every Hearing for Every Child...

Every...

- ❖ Lawyer,
- ❖ Agency,
- ❖ Parent, guardian ad litem or CASA
- ❖ Social Worker
- ❖ Probation Officer...

...is responsible for knowing the educational needs of the children.

At Every Hearing for Every Child...

Judges should:

- ❖ Require the parties to present information on the educational status of the child
- ❖ Hold the parties accountable for ensuring that the educational needs of the child are met
- ❖ Determine who has educational decision-making authority (parents, surrogate, etc.)

Get the Educational Records

- ❖ Attendance
- ❖ Discipline
- ❖ Immunization
- ❖ Special Education
- ❖ Standardized Tests
- ❖ Report Cards/Progress Reports
- ❖ Evaluations

In School: Top 10 Questions

1. Is the child enrolled in school?
2. Is the child attending school?
3. How many schools has the child attended?
4. Can the child remain in his/her home school?
5. Is the child's living arrangement permanent?
6. Has the child been expelled or suspended from school?
7. Who has discussed the plans with the child and what does the child want?
8. Does the child feel safe in the school?
9. How does the child get to school?
10. Who, at the school, does the child trust?

The Right School: Top 10 Questions

1. Has the child been observed, evaluated, assessed or identified as needing special services at any point in his educational career?
2. Is there a significant discrepancy between the child's chronological age and developmental or achievement level?
3. How is the child doing in school academically, socially, emotionally, etc.?
4. Does the child have an IEP or a Section 504 plan and is it appropriate and being followed?
5. For every proposed school, what is the state's assessment (teacher qualifications, accreditation, graduation and dropout rates, class size, No Child Left Behind Performance, etc.)?
6. Who has discussed the plans with the child and what does the child want?
7. To what is the Child significantly connected?
8. What services does the child need to succeed (educational and non-educational), does the child's school and/or home placement have these services, and is the child getting them?
9. Is the child in the least restrictive environment?
10. Is the child accruing credits toward high school graduation?

Finish School: Top 10 Questions

1. What are the child's strengths and interests and how can these be enhanced?
2. What is the future educational and/or vocational plan for the child?
3. What is the child's plan for independent living and who has discussed this plan with the child?
4. Where will this child live in 6 months, 1 or 2 years to allow him/her to finish school?
5. How will this child access health benefits and medical care?
6. What family and community resources are available and appropriate for the child?
7. What other services or resources does the child need and for approximately how long will the child need these services or resources?
8. Will the child need transitional housing?
9. If the child is 14 or older, is there a transition plan in place, are transitions services included in the child's IEP, and who is responsible for implementing the plan?
10. What classes does the child need to achieve his/her educational and vocational goals?

EDUCATION CHECKLIST

Inquire at each regular hearing for all children:

- Child in School? Who holds educational rights? (will be parent or designee until dispo)
- Order relevant school records, including attendance and grades.
- Expelled, suspended, involuntary transfer
- Extra curricular activities
- Basic literacy programs – reading skills
- Child doing better than last 6 months?
- Child has place to do homework?
- Who helps child with or checks homework?
- Library card?

INDIVIDUAL HEARING INQUIRIES:

At each hearing, the judicial officer should make the following orders, as appropriate:

DETENTION/INITIAL HEARING:

- Child attending school regularly – ask parent.
- Vision/hearing information
- Order relevant school records, including attendance and grades.
- Does child have IEP/504-if so, order it attached to jurisdiction report.
- Is child Regional Center client – if so, order IPP attached to jurisdiction report.
- If no current school information, order DCFS to refer for and obtain a psycho/educational evaluation of the child(ren).
- Depending on age of child is child in preschool readiness program, or in correct grade for age. Is child performing at grade level? Is child having academic problems?
- If it is in the child's best interest, order DCFS to notice school and caregiver to maintain child in school of origin for the duration of the school year – pursuant to McKinney-Vento, and Ed. Code 48853.5 Child may be moved if appropriate.
- Order assessment by DCFS of school stability factors. If child outside school of origin, why, and what steps were taken to keep in same school?
- If child pre-natally exposed to drugs/alcohol, premature, or medically fragile, order a Regional Center referral.

JURISDICTIONAL HEARING:

- Child in school of origin? If not, why not? Is child enrolled in some school?
- If educational issues present the main risk to the child:
 - Step 1: order parent, and/or DCFS to assist parent or caretaker, with requesting a spec/ed or 504 assessment for the child and/or an SST. A referral for an assessment pursuant to “3632” may be concurrently requested. Provide parent or caretaker with assessment request form.
 - Step 2: After the assessment is completed, have hearing to receive completed IEP. If parents pose no other risk, consider JT or 360 (b).
- If educational issues exist but do not present the main risk to the child, determine whether there are unmet education or special education needs:

- If it appears that the child has special needs, order DCFS to assist the caretaker to prepare a written request for an assessment for the child. (You may not make orders to a school district)
- Order any IEP's, school records, court ordered assessments to be attached to the disposition report.
- If child not in need of special education, but not succeeding:
- Order tutoring in any way available under the law.
 - Order DCFS parent/caretaker to initiate a student success/study team meeting (SST). Get copy of plan for file. Be aware of follow-up date.
 - Order case conference with DCFS, minor's attorney, minor's therapist and parent/caretaker to identify psychological or environmental barriers to learning. (Too many placements, child has PTSD, ADD, ADHD, no home enrichment, child dealing with being out of home and trauma)
- Age 14-15. Order e-step for emancipation. If child has an IEP, it should identify transitional goals.
- Age 16 to JT. Order TILP for emancipation. If child has an IEP, it must provide transitional services. (vocational not academic)
- If appropriate, check graduation credits. DCFS/caretaker to check "grad checklist".
- Child progressing?

DISPOSITIONAL HEARING:

- Review all school records.
- Review school stability. – Each school move, require DCFS to list what factors determined move and steps taken to keep in school.
- If child is behind, determine by assessment whether problem is environmental (too many schools, not enough school, no home enrichment), physical (neurological, vision, hearing), or educationally based (special education needs).
- Make WIC 361 (a) decision re: limitation of parent/legal guardians right to make educational decisions:
- If educational rights are not removed from the parent, remind the parent of his/her right and obligation to advocate for his/her child's educational needs.
- If educational rights are removed from the parent, the court must name a "responsible adult" to advocate for the child's educational needs (per 34 CFR 300.20 may be a relative caretaker, a non-relative extended family person, a stepparent with whom the child lives, CASA or, under certain circumstances, a foster parent. It may not be the social worker, or the group home administrator).
- If educational rights are removed from the parent, and there is no responsible adult, the school district must appoint a surrogate parent. Use Form JV 535.
- Fill out state form JY535 – DCFS to send to school and get return form.
- Determine whether there are unmet educational/special education needs and, if so, make the appropriate orders.
- If it appears that the child may be in needs of special education services, order DCFS to assist the parent or responsible adult in requesting in writing an assessment for the child (**You may not make orders to a school district.**)
- If the child already has been found eligible for special education services, determine whether (1) the IEP is current, (2) the child is making progress, (3) services in the IEP are being provided.
- Order relevant school records, including attendance, grades and current IEP (if it exists) to be attached to the next court report.

REVIEW HEARINGS:

- School stability. Is child progressing?
- Parent stable enough to move to termination pursuant to an appropriate IEP, (day treatment, residential)? Order transition services or referrals for TBS, Wrap, if necessary to move child home.
- Check graduation credits.
- If recommendation is termination of jurisdiction, check IEP and make sure all community resources for the family are in place.
- If the permanent plan for the child is planned permanent living arrangement, use WIC 366.27 to authorize the caretaker to make educational decisions.
- Order relevant school records, including attendance, grades and current IEP (if it exists) to be attached to the next review report.

JOINDER

IF AT ANY TIME SPECIAL EDUCATION SERVICES ARE NOT BEING PROVIDED TO A CHILD WHO HAS AN IEP, CONSIDER DIRECTING THE CHILD'S COUNSEL TO BRING A JOINDER MOTION (WIC 361) TO SUBJECT THE SCHOOL DISTRICT TO DEPENDENCY COURT JURISDICTION OR TO FILE A COMPLIANCE COMPLAINT WITH THE DEPARTMENT OF EDUCATION.

1. WI Code § 362
 - Counsel to file joinder motion
 - court set a hearing in days
 - Court determines:
 - Duty is owed to child, and agency may be joined.
 - Relief requested is/is not granted by court order.

Reminder: No joinder may be brought unless administrative remedies or compliance complaints have been exhausted, or are futile. To prepare, utilize the 317(e)