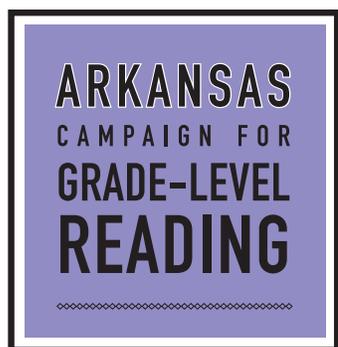


# REDUCING CHRONIC ABSENTEEISM FOR CHILDREN IN FOSTER CARE AND FINS

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Too many children in Arkansas are missing too much school to make academic progress. In 2014-15, 13 percent of K-12 students were chronically absent, meaning they missed 18 or more days of school (or 10 percent of the school year) for any reason, including being suspended.<sup>1</sup> Children who are chronically absent in kindergarten and first grade are much less likely to read proficiently by the end of third grade. They are also more likely to have poor attendance in later grades. By middle and high school, chronic absence has proven to be a warning sign that a student will drop out, especially for lower-income students.

The consequences of chronic absence may be more serious for our most vulnerable children: children in foster care and the Families in Need of Services (FINS) court system. These children typically miss more school than their peers, due to frequent court appearances, mandated counseling, traveling to visit their families, and other factors.

Arkansas Advocates for Children and Families (AACF) and the Arkansas Campaign for Grade-Level Reading (AR-GLR) decided to take a closer look at how children's involvement in these systems may be contributing to their chronic absence and disrupting their learning. However, we found that it is very difficult to know the extent of the problem, because little data is collected and shared between state agencies, schools, social workers, and courts; data is not easily matched across state agencies' systems; and schools often do not know which kids are even in FINS.<sup>2</sup> For this report, we gathered anecdotal evidence from several stakeholders to better understand the problem. It is clear is that our state has a lot of work to do in improving data collection and communication across all of the systems that these children encounter.

## **KEEPING CHILDREN IN FOSTER CARE IN SCHOOL**

Children in foster care are more likely to experience traumatic events, such as abuse and neglect; have mental health challenges; become pregnant; and become involved in the juvenile justice system. They are disproportionately children of color and are subject to higher rates of school discipline, including suspensions and expulsions.<sup>3</sup>

Nationally, students in foster care miss twice the number of school days as their peers (an average 25 missed days compared to 12 days for other students in the same district), with the number of absences increasing as children enter adolescence.<sup>4</sup> Frequent housing and school changes affect their ability to attend school regularly.<sup>5</sup> One study found that children with unstable family placements averaged 3.6 schools in two years.<sup>6</sup> Frequent school changes are highly correlated with poor academic performance.<sup>7</sup> Instability in school attendance hurts learning for other children in the classroom as well, since teachers have to spend more time providing remediation.

These challenges make it difficult to learn, read on grade level, and graduate on time. In the long-term, children in foster care are more likely to be unemployed or underemployed, live in poverty, or be incarcerated.<sup>8</sup>

### **What Do Statutes and Rules Say About Educating Kids in Foster Care?**

#### **Federal Laws**

Children in foster care also frequently miss school due to lack of coordination between schools and the child welfare system, including waiting for schools to transfer students' records.<sup>9</sup> The federal Fostering Connections Act of 2008 was enacted to help mitigate some of these problems. It requires that foster students remain in their school of origin if it is in their best interest; requires school districts and

child welfare agencies to collaborate to address how transportation to the school of origin will be provided and funded; and requires prompt enrollment in and transfer of records to a new school, when necessary. The Uninterrupted Scholars Act of 2013 also amended the federal Family Educational Rights and Privacy Act (FERPA) to allow districts to share the education records of students in foster care with state child welfare agencies without parent or student consent, to minimize the amount of school they miss while waiting for transfers. Nevertheless, many of these students are still struggling to keep up in school.

### State Laws

Arkansas statutes require the state Department of Human Services (DHS) and school districts to work together for the best interest of any child placed in foster care (Ark. Code Ann. §§ 9-28-112 to 113). Key obligations include:

- Requiring DHS to inform a child’s current school district by the next business day if DHS places a 72-hour hold on a child to conduct a home study before removing the child from his or her home, or if a court places a child in DHS custody; a foster child transfers to a new placement; or DHS reasonably believes that a foster child has experienced a traumatic event (in which case, DHS may inform the school counselor).
- Requiring continuity of educational services for students in foster care by ensuring that the foster student remains in the school of origin whenever possible; is moved to a new school in a timely manner when necessary, appropriate, and in his or her best interest; and has access to the same academic resources, services, and extracurricular activities available to all students.
- Requiring school districts to work with DHS to develop a transportation plan to ensure continuity





of education services, to the extent reasonable and practical.

- Requiring districts to have a foster care liaison to ensure and facilitate the timely school enrollment of each foster child and expedite the transfer of records within 10 days.
- Requiring a foster child's new school to immediately enroll him or her even if the child is unable to provide required clothing (such as uniforms), school transcripts, medical records, or proof of residency.
- Prohibiting schools from lowering a foster student's grades due to absence from school due to change in enrollment or attendance at court-ordered counseling or treatment.

Although state law requires DHS to consider school stability in making foster placement decisions, this is not always possible. Since Arkansas only has about 1,600 foster care homes for over 5,000 children, many kids are not able to be placed with foster families in their home town, leaving them no choice but to transfer to another school.

Many Arkansas children in foster care still miss school for court hearings, visits with their parents, and appointments. Another challenge for these students is lack of transportation. Many foster families are not able to transport these children to visit their families of origin, who may be scattered across the state. DHS' Division of Children and Family Services (DCFS) typically does not have the resources or staff to transport them either. Even when transportation is available, the long distances that children must travel causes them to miss more school, leaving them further behind academically. Our interviews with a few school leaders confirm that this is a major challenge for students in rural areas.

### **The Every Student Succeeds Act (ESSA)**

The Arkansas Department of Education (ADE) was already implementing many of the requirements of the new federal Every Student Succeeds Act (ESSA) for the education of foster children before the state's plan went into effect in January 2018, while many other states are still struggling to comply.<sup>10</sup> Under ESSA, state education agencies and school districts must report annually on academic achievement and graduation rates for children in foster care as a separate subgroup, to show how foster students are performing relative to their peers. Administrators should then use the data to determine and address any deficiencies. In addition, school districts receiving federal Title IA funds must collaborate with state or local child welfare agencies on how to provide and fund transportation to keep children in foster care in their school of origin, when in their best interest.

### **Keeping Children in the FINS System in School**

Children who have been referred to the Families in Need of Services (FINS) system face a similar set of challenges. In Arkansas, any adult can file a FINS petition for students whose behavior includes, but is not limited to:

- Habitually and without justification absent from school while subject to compulsory school attendance;
- Habitually disobedient to the reasonable and lawful commands of the parents, guardians or custodian;
- Absent from home without sufficient cause, permission or justification; or
- Is in need of counseling or other services.

Most of Arkansas's statute related to FINS is concerned with truancy, which typically happens during the teenage years. However, under Ark. Code Ann. § 9-27-314, a court also must remove a child from the custody of the parents or guardians named in the FINS petition if it is

necessary to “protect the health or physical well-being of the juvenile from immediate danger or to prevent the juvenile’s removal from the state [of residence].” This provision may explain why 698 FINS petitions were filed in Arkansas for children ages 0 to 4 from 2011-2015.<sup>11</sup>

During this same period, FINS usage increased when children began elementary school, with 8,746 cases between ages 5-12, then rose dramatically from ages 13-17 (16,790 cases). There were 476 FINS cases filed on children ages 18 and above; according to the Arkansas Circuit Courts Judges’ Benchbook, “a juvenile who has been adjudicated a FINS and who is in foster care before age eighteen (18) may request the court to continue jurisdiction until the age of twenty-one (21).”<sup>12</sup>

**What Do State Statutes and Rules Say About Educating Kids in FINS?**

Requirements for FINS are scattered throughout various sections of Arkansas Code, which makes it more difficult to understand. Also there are fewer rules or guidance about educational stability for students with FINS than for students in foster care. The Arkansas Circuit Courts’ “Judges’ Benchbook: Juvenile Division” outlines the court’s responsibilities and families’ legal rights. In short, judges have wide latitude in determining how to handle FINS cases — and FINS families have very few rights. Most alarmingly, the law allows the state to immediately remove a child from his or her home in FINS cases, without the same formal process considered in a dependency-neglect case.

A judge may order social services to assist the family in getting the necessary help for the child, such as counseling, drug and alcohol treatment, cash assistance, or psychological evaluation. A judge could also place the child in a treatment facility or detention center, or even revoke parental custody immediately. The court must review these cases every six months, pursuant to Ark. Code Ann. § 9-27-337. Judges’ decisions are

often guided by the history of disciplinary actions that a student has received; the court’s current FINS and other juvenile caseloads; the judge’s definition of “disobedience”; and the availability of social services in the community, which are generally in short supply in rural, high-poverty areas.

**How is FINS Working (Or Not Working) in Arkansas?**

A 2017 report co-sponsored by Hendrix College and Disability Rights Arkansas provides an excellent overview of how well the FINS system is (or is not) working in Arkansas.<sup>13</sup> The report’s author, Peter Butler, analyzed data from the Administrative Office of the Courts (AOC) to determine where FINS cases are concentrated, the demographics and disability statuses of students referred, and how many children enter the foster system from FINS. However, he notes that this data is very limited, making it difficult to draw conclusions about disparities by race or geographic region. It’s even more difficult to determine the impact of these cases on school attendance and educational outcomes.

Nevertheless, Butler’s study found the following:

- From 2011 to 2015, a majority of FINS cases came from 12 of the 28 circuit court divisions, with a disproportionate share prosecuted in the eastern Delta region (60 percent). It is much more difficult for families to access services, such as counseling, in these rural areas.
- Out of more than 26,000 cases filed between 2011 and 2015, AOC lacks racial data for over 20 percent of petitions.<sup>14</sup> Of the data available, 52 percent of children were white, and 20 percent were African-American.
- AOC also does not collect data on whether a student has a disability or a qualifies for special education services under the Individuals with Disabilities Education Act (IDEA).



Butler also found that while the intent of FINS is to help children and families in crisis, many educators and social workers have found that the FINS process is often used punitively by both schools and courts. AACF found similar problems in our research for this report. This punitive approach can lead to even more school absences when students are required to attend court hearings. The AOC is now trying to determine how many FINS cases are being filed by schools and perhaps what can be done to minimize referrals due to behavior problems and truancy.

AACF also found that lack of coordination among stakeholders is a major problem. Interviews with some school officials found that when a FINS petition is filed, the court doesn't reach out to ask the district about the student.

**“I wouldn't necessarily say we have a good model,” says one high school assistant principal from Northwest Arkansas. “We have FINS paperwork that we fill out and send to the local court system, but it usually takes months before a student has a court date. In the interim is valuable time that the student continues to miss.”**

An elementary principal in central Arkansas agreed: “Once upon a time we had a [school] district staff person to make these connections for us; however, now it is a very slow local process.”

A school administrator from Northwest Arkansas adds, “My feeling is we need to have a good alliance [between the school and the court system] in order to be able to provide what is best for our kids.” So did an elementary school principal in central Arkansas: “[Our] court system does not work well with schools in [our county]. How can we work together better?”

How can we translate the tardies to absences? If the state legislature would change the law to reflect so many tardies equals so many absences, we could hold the parents accountable.”

Fortunately, there are some policies and practices in Arkansas that show promise but need more research. For example, the Judge's Benchbook lists two alternatives to FINS that have shown positive results in some districts: One is “diversion,” which judges may use if they determine that it is the best interest of the child and community. Diversion is a process of early intervention through services in the community to keep at-risk juveniles out of court and avoid being filed as a FINS petition. Diversion may include participation in counseling or drug treatment or enrollment in an alternative school. Parents must pay up to \$20 per month to cover the cost of diversion services for their child, but they are not eligible for services themselves.

The court may also refer the case to mediation, such as the Arkansas Youth Mediation Program, operated by the law schools of the University of Arkansas at Fayetteville and University of Arkansas at Little Rock. Case managers can refer a family for mediation prior to a scheduled court date, and if an agreement is reached, the court is notified; if it is not, the case returns to court.<sup>15</sup>

The legislature enacted Act 215 of 2015 to make it easier for schools to report educational neglect to DHS' child abuse hotline under the Child Maltreatment Act, rather than having to file FINS petitions.<sup>16</sup> Educational neglect occurs when parents or guardians do not enroll their children in school or actively prevent them from attending school regularly. Educational neglect differs from truancy, which occurs when the student chooses not to attend school. The law's goal was to reduce the FINS caseload by referring educational neglect cases to DHS instead of courts, but it is unclear to what extent this has

happened. A school leader describes her experience with this process below:

**“I believe in our area [DHS referrals are] used primarily for the secondary students who may have other issues contributing to attendance. I have hotlined ed neglect for families who have exceeded the policy number of days. In some cases it has been very effective, in other situations it hasn’t made much of an impact. On the FINS paperwork it specifically asks if this has been hotlined to DHS, if it hasn’t, a FINS can’t be filed. It is an absolute last resort for me.”**

### **What Does the Research Say About Helping Children At Risk for Chronic Absence?**

In one of the largest studies of chronic absenteeism, Professor Robert Balfanz at Johns Hopkins University found that truancy among teenagers is seldom caused by abuse or neglect at home; rather, many students skip school because they don’t find it relevant to their lives, and schools need to find ways to re-engage them. One quarter of chronically absent students missed school to avoid negative school experiences, such as a bullying or trouble with classes, and another quarter missed school because they had to work to support their families or take care of other family members.<sup>17</sup> Balfanz found that these kids need support long before entering a court system, and punishing parents is not effective in solving the problem. Caseworkers in the study also reported that “the stigma and adversarial nature of investigations can make parents more resistant to help.”





Other studies have also found that proactive, positive relationships with both students and families — rather than punitive approaches — are most effective at identifying the root causes of absenteeism and meeting families’ needs:

In sum, communities, schools, courts, and law enforcement agencies need to work together to address these needs, and in so doing, decrease truancy. Rather than placing a focus on only one setting (i.e., school, community, court, law enforcement agency), successful truancy efforts demand a continuum-of-care. If not, programs fall short of providing the full range of services and support often needed by truant youth and their families. Moreover, without a continuum-of-care, truancy initiatives are ill-equipped to address issues directly associated with truancy such as academic problems, troubled family situations, and other psychosocial difficulties — including drug use.<sup>18</sup>

### **How the State Can Reduce Chronic Absence for Kids in FINS and Foster Care**

In summary, although data is very limited, the biggest challenges that need to be addressed appear to include the following:

- The state has limited data collection and analysis about attendance and academic outcomes for children in FINS and foster care or disparities for children of color or those with disabilities.
- Arkansas statute and rules do not provide a uniform definition for school absences. Arkansas’s plan to implement the federal Every Student Succeeds Act (ESSA) now requires all public schools to report rates of chronic absenteeism as a measure of school quality. However, schools may still define what an absence means.
- There often is very little coordination and communication between schools, courts, support services, and families.

These challenges are neither new nor unique to our state, as state and local officials across the country struggle to find the best way to serve kids often caught up in bureaucratic and overtaxed social services and educational systems. Fortunately, Arkansas already has laws and rules in place to help minimize chronic absence for kids in foster care, such as requiring a point of contact for the education of children in foster care, not penalizing them for missing assignments or time spent out of class because of court or child welfare meetings, and providing them extra opportunities to make up lost work or receive extra credit. However, these practices are still unlikely to make up for lost instructional time. It’s also unclear what policies, protections, and supports are being provided for children in FINS. Arkansas policymakers, courts, case workers, schools, and families must work together to ensure the best possible education for these children. A few recommendations include:

#### **1. Improve Data Definitions, Collection, and Sharing Across Systems**

- The Arkansas Department of Education should require a common definition of school attendance, with clear policies for measuring absences and supporting children in foster care and FINS.
- The Arkansas Department of Education should collect and publicly share data on academic achievement (including reading levels) and attendance for children in foster care and those in the FINS system, disaggregated by race, gender, English proficiency, and disabilities.
- The Administrative Office of the Courts should track who files FINS petitions and why, the services ordered, and the educational outcomes of cases across the state.
- AOC, DHS, and ADE should also work together to coordinate their data systems to track the academic progress and attendance of students in the foster care and FINS systems. With better data collection and analysis, we can better understand the extent of the problem and learn which schools

and courts seem to be having greater success in minimizing learning disruption.<sup>19</sup>

## 2. Increase Communication and Collaboration Among Stakeholders

- Schools, family and juvenile courts, case workers, and families must work together to help ensure that these students receive the attention and support they need to remain in the classroom, ready to learn.
- Child welfare agencies should work with courts to schedule the timing and frequency of appointments, visits and court appearances for foster care youth in a way that minimizes out-of-class time and the impact on their education, including extracurricular activities.
- Although districts must assign a foster care liaison to all students in foster care, there is not a similar requirement for students in FINS. The state should consider charging foster care liaisons with responsibility for coordinating education services for FINS cases as well.

## 3. Provide Families in Crisis with Support, Not Punishment

- Judges should consider diversion and mediation as an alternative to bringing more families into the court system.
- Local education and child welfare agencies must develop a plan to provide cost-effective transportation to students in foster care to allow them to remain in the same school when in their best interests.<sup>20</sup>
- More state funding for social services should be targeted to rural, isolated areas of the state that have a disproportionate share of FINS cases.
- School districts must work aggressively to identify children in foster care and FINS. Districts should ensure that all students in foster care and FINS are able to read on grade level and provide intensive in-school, afterschool, and summer tutoring programs to help them make up lost learning due to chronic absences.
- Judges should use their discretion to help more families receive counseling and treatment when diversions are used.

## BRIGHT SPOTS IN ARKANSAS

### Rogers School District

The Rogers School District has worked hard to make FINS referrals less punitive and more about helping children and their families. According to Kerri Vollmer, a Licensed Clinical Social Worker at the Rogers School District, the District has a great working relationship with Benton County Juvenile Courts: “The social workers in our school file the FINS, and we correspond with the FINS officer to give academic and attendance reports. One of our social workers at the high school gets a court list of who will be “up” at court; she sends it out to school social workers, and we give any additional information we know about the student/family to her. She then attends court on Mondays when Rogers students appear. We have direct emails and phone numbers to court staff, and several times the [court] has come to talk with us, update us, and have lunch with us to keep the relationship going.”

### Oaklawn Visual & Performing Arts Magnet School

Jason Selig, principal at Oaklawn Visual & Performing Arts Magnet School in Hot Springs, says his elementary school has a good relationship with the Garland County Juvenile Court. The court liaison meets with Selig and his team at their school every week, including the school’s social worker, who focuses on building relationships with families in need. They work together to find ways to help kids and families in the court system, such as providing counseling.



## BRIGHT SPOTS AROUND THE COUNTRY

### Baltimore City Public Schools

With the assistance of Attendance Works, Baltimore City Public Schools is tackling its high rate of chronic absence by taking a proactive, data-driven, and system-wide approach. The district strives to improve attendance by building relationships with families and creating a positive school culture. Each month it provides student data to the Baltimore City Department of Social Services, including information about attendance, behavior, and grades. The Department then produces monthly reports on all children who are involved in the child welfare system. For children who miss 10 percent or more of school that month, a social worker must visit their families' homes to come up with a plan of action.<sup>21</sup>

### Contra Costa County, California

For many years, Contra Costa County had one of the highest rates of truancy in California.<sup>22</sup> Now it is one of the nation's biggest success stories in combatting chronic absenteeism among students whose families need support. With the help of a \$625,000 grant from the Thomas J. Long Foundation, plus a matching in-kind grant from the county's Behavioral Health Services department, county leaders worked to create a comprehensive plan with public schools, the courts, law enforcement, and other partners to create a Parent Truancy Program.<sup>23</sup> This program requires parents of truant elementary and middle-school students to appear in court, where they receive extensive coaching and support rather than punishment or loss of custody. Grant funds can be used for transportation, counseling, or other needed services.



- Alliance for Children’s Rights’ “Foster Youth Education Toolkit” and “Court Companion to Foster Youth Education Toolkit”: <http://kids-alliance.org/programs/education/educational-equity/edtoolkit/#courtcompanion>
- Arkansas Campaign for Grade-Level Reading’s Toolkit: “Leading Attendance in Arkansas: How Principals Can Help Students Succeed by Reducing Chronic Absence” <http://www.leadingattendance.ar-qlr.net>
- Attendance Works: Toolkits <http://www.attendanceworks.org/resources/toolkits>
- FosterEd: Champions for Systems-Involved Scholars <http://foster-ed.org>

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