

ENSURING NORMALCY AND WELL-BEING THROUGH PARTICIPATION IN ENRICHMENT ACTIVITIES

Research has conclusively demonstrated that court-involved children and adolescents present with extremely high rates of traumatic stress caused by their adverse life experiences. Participation in enrichment activities can help young people heal, promote supportive social connections, and provide opportunities to develop valuable skills. Unfortunately, the conditions of foster care often lead to restricting and deprioritizing activities that most youth raised in families access as part of their childhood. The court plays a central role in ensuring that enrichment activities are prioritized for youth in foster care. This Bench Card provides judges with useful questions and guidelines to help make findings and orders to support participation in enrichment activities, based on research on child development and trauma, as well as state and federal law.

ENSURING PARTICIPATION

QUESTIONS TO ASK

1. What activities or hobbies does the young person participate in?
2. If they do not participate in activities, what efforts have been made to engage them in activities?
3. Are the activities and specific supports for the activities being documented in the case plan?
4. If the young person is age 14 or older, did they have the opportunity to identify an individual to be included in the case planning meeting and be an advocate for the youth regarding participation in age-appropriate activities?
5. Has the young person's caregivers, including those in group care, been trained on how to exercise the reasonable and prudent parent standard?
6. Has the court asked the youth directly about their interests, activities, and hobbies?

PRACTICE POINTS

- Enrichment activities should be interpreted broadly and be individualized to the specific young person. They can be formal and organized, like sports and clubs, but can also be hobbies and social activities.
- Enrichment activities should be discussed at the case planning meeting and at the monthly case worker visit.
- Consulting the young person directly is an important way to gauge whether the case planning team is prioritizing participation in activities. It is also a way to convey to the youth that the court is interested in their strengths and interests as a person, rather than just a case.

LEGAL AUTHORITY

- All young people in foster care have a right "to participate in extracurricular, cultural, racial, ethnic, personal enrichment, and social activities, including, but not limited to, access to computer technology and the internet, consistent with the child's age, maturity, developmental level, sexual orientation, and gender identity and expression." WIC § 16001.9(a)(16); see also WIC § 362.05.
- Youth age 14 and older have a right to select "up to 2 members of the case planning team ... who are not a foster parent of, or caregiver for, the child. ... One individual ... may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child." 42 U.S.C. § 675(1)(B); WIC § 16501.1 (g)(17).

REMOVING BARRIERS TO PARTICIPATION

QUESTIONS TO ASK

1. What supports are needed for the youth to fully participate? Are there participation fees? Transportation costs? Equipment needs? Others?
2. If the child welfare agency or probation department states they cannot cover the cost, have they utilized any of the following: Flexible Family Supports and Home-Based Foster Care funding under AB 179, Title IV-E funds for placement maintenance, or complex care funding for child-specific funds requests?
3. If the youth is in a short-term residential therapeutic program (STRTP), has the STRTP met its obligation under WIC § 11462 to provide access to enrichment activities as part of their core services?
4. If the youth has a disability or a behavioral health need, are they being provided equal access to enrichment activities and reasonable accommodations to ensure access?
5. If the youth is in residential care, are they participating in activities? Does the facility have a designated decision maker to exercise the reasonable and prudent parent standard?

PRACTICE POINTS

- Participation in enrichment activities can be healing and provide a healthy outlet for young people to manage stress and challenging emotions. Enrichment activities should be seen as complementary to traditional treatments and generally supportive of mental health and wellness.
- Access to enrichment activities is critical to any young person's development, and young people with disabilities and in restrictive placements should not be excluded. Certain accommodations, such as increased staff support, can be provided and should be discussed at the case planning meeting.
- Access to enrichment activities should not be used as a punishment or reward.
- Title IV-E placement maintenance funds can be used to defray some of the cost of enrichment activities.
- All county child welfare agencies and juvenile probation departments have been allocated Flexible Family Supports and Home-Based Foster Care funds pursuant to [ACL 23-02](#), which can be used to cover the cost of enrichment activities.
- All county child welfare agencies and juvenile probation departments have access to child-specific complex care funds pursuant to [ACL 21-119](#), which can be used to develop supports for young people, including access to enrichment activities.

LEGAL AUTHORITY

- Access to enrichment activities and training on the reasonable and prudent parent standard applies to all child welfare placements, including group and residential care. 42 U.S.C. § 671(a)(10); WIC § 362.05.
- "A state or local regulation or policy shall not prevent, or create barriers to, participation in those [extracurricular, cultural, racial, ethnic, personal enrichment, and social] activities." This also applies to private foster care agencies, who must "promote and protect" the ability to participate. WIC § 362.05.
- ADA and Section 504 of the Rehabilitation Act prohibitions on disability discrimination and requirements for reasonable accommodations for government services apply to child welfare services. 42 U.S.C. § 12132; 29 U.S.C. § 794(a); 28 C.F.R. § 35.130; GOV § 11135; [ACL 19-45](#).

COURT FINDINGS AND ORDERS TO SUPPORT PARTICIPATION

QUESTIONS TO ASK

1. Has the court made findings as to whether the child welfare agency is taking steps to ensure the child's foster family home or child care institution is following the reasonable and prudent parent standard?
2. Has the court made findings as to whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities?
3. Do any judicial orders need to be issued to ensure meaningful participation, such as fees and cost for participation, transportation, or supervision?
4. Should the court order that a progress report is submitted before the next hearing to ensure that orders have been complied with?

PRACTICE POINTS

- The court's focus on enrichment activities at the hearing and in the court order can set the tone for prioritizing activities and improving child well-being.
- Specific court orders, especially concerning the supports like fees, transportation, and supervision, are critical to make sure participation actually occurs. Ordering progress reports can also keep the focus on these activities.

LEGAL AUTHORITY

- For youth with the permanency plan of APPLA, “[a]t each permanency hearing held with respect to the child, the State agency shall document the steps the State agency is taking to ensure that—(A)the child's foster family home or child care institution is following the reasonable and prudent parent standard; and (B)the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).” 42 U.S.C. § 675a(a)(3); WIC § 366.3(h)(3).