

BLUEPRINT FOR CHANGE:
Education Success for Children
in Foster Care

Florida GAL Training
April 23, 2009



LEGAL CENTER FOR

FOSTER CARE & EDUCATION

- ❑ Collaboration between ABA and Casey Family Programs, in conjunction with the Juvenile Law Center and Education Law Center
 - ❑ A national technical assistance resource and information clearinghouse on legal and policy matters affecting the education of children and youth in out-of-home care
 - ❑ Website: www.abanet.org/child/education
 - Listserv, Conference Calls, Publications, Searchable Database
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Examples of the Barriers to Educational Achievement for Children in Care

- Lack of placement stability
 - Delayed enrollment
 - Children with special education needs do not access/receive services
 - Over-representation in alternative education
 - Confusion about legal rights
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Blueprint for Change: Education Success for Children in Foster Care



- 8 **Goals** for Youth
 - **Benchmarks** for each goal indicating progress toward achieving education success
 - National, State, and Local **Examples**
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Stakeholders: Those who affect the lives of children in foster care and must be involved in any reform

- Foster parents
- Children, youth & alumni
- Birth parents
- Caregivers and other relatives

- Caseworkers
- Child Welfare Agencies
- Special advocates
- Tribal partners

- Court Appointed Special Advocates (CASA volunteers)
 - Children's attorneys
 - Guardians *Ad Litem* (GAL)
 - Parent attorneys
 - Child welfare agency attorneys
 - Judges & Magistrates
 - Teachers & school staff
 - School systems & attorneys
 - Policymakers
 - Community partners
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Goals for Youth

- Goal 1: Remain in the Same School**
 - Goal 2: Seamless Transitions Between Schools**
 - Goal 3: Young Children Are Ready to Learn**
 - Goal 4: Equal Access to the School Experience**
 - Goal 5: School Dropout, Truancy, and Disciplinary Actions Addressed**
 - Goal 6: Involving and Empowering Youth**
 - Goal 7: Supportive Adults as Advocates and Decisionmakers**
 - Goal 8: Obtaining Postsecondary Education**
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General Information

- Goals written from a youth's perspective
 - Youth with disabilities are addressed in each Goal and are highlighted in **RED**
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GOAL 1: YOUTH ARE ENTITLED TO REMAIN IN THEIR SAME SCHOOL WHEN FEASIBLE

- ❑ On average, a child in care may changes schools two to three times per year.
 - ❑ Academic difficulties are more likely to go unnoticed; records misplaced, credits lost and academic placements may be inappropriate.
 - ❑ With each move, a child falls three to six months academically behind their classmates.
 - ❑ Almost half of foster youth nationally do not complete high school.
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BENCHMARKS THAT SHOW PROGRESS TOWARD GOAL 1

- ❑ School stability and continuity considered in foster care placement decisions
 - ❑ Youth have a right to stay in their school of origin when in their best interest to do so, and implementation of that right includes transportation
 - ❑ Youth have necessary supports and information to make school of origin decisions; those working with youth are trained on legal entitlements and dispute procedures
 - ❑ Youth with disabilities have a stable appropriate educational setting, receive necessary services, including transportation.
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GOAL 2: YOUTH ARE GUARANTEED SEAMLESS TRANSITIONS BETWEEN SCHOOLS AND SCHOOL DISTRICTS WHEN SCHOOL MOVES OCCUR

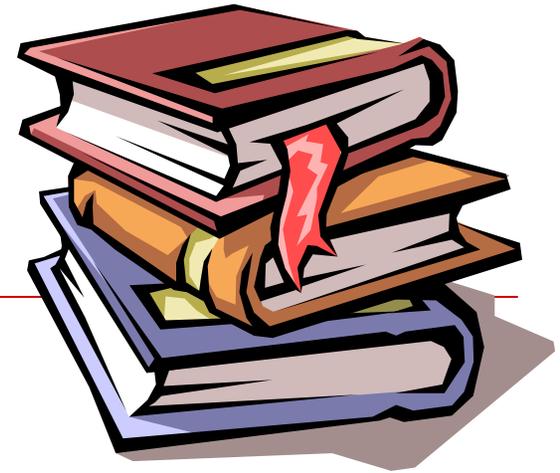
- Children in care fall behind due to enrollment delays
 - Failure of prior schools to locate records and to transfer all credits.
 - Missing enrollment documents or requirements (i.e. Immunization records, birth certificates, uniform)
 - Unclear who is responsible for enrolling the child and who has the authority to do so.

 - Youth in foster care do not have advocates/liaisons within child welfare or education agencies to help them make a smooth transition by addressing enrollment, placement and access to school activities.
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BENCHMARKS THAT SHOW PROGRESS TOWARD GOAL 2

- Immediate, or expedited, enrollment, without typical document or record requirements that cause delays
 - Clarity on who can enroll a student
 - Timely and accurate record transfers, including protections for confidentiality
 - Timely credit transfers, partial credit calculations and considerations for graduation requirements
 - Ability to promptly participate in academic and extracurricular programs.
 - Timely delivery of services for children with disabilities**
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Legal Tools for Goals 1 & 2



EDUCATION LAW

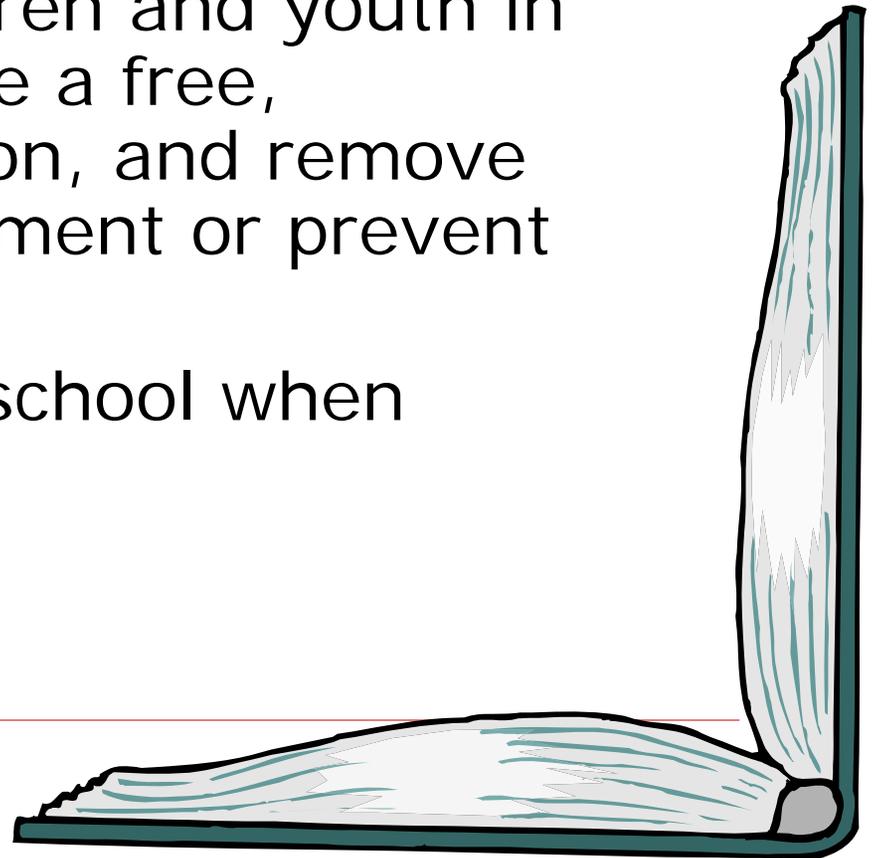
- McKinney-Vento Act
- Family Education Rights and Privacy Act (FERPA)

CHILD WELFARE LAW

- Fostering Connections to Success and Increasing Adoptions Act of 2008
 - Case Plan Requirements (Title IV-E of the Social Security Act)
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Legal Tools for Goals 1 & 2

- ❑ **McKinney Vento Homeless Assistance Act**
42 U.S.C. §11431 et. seq.
- ❑ Purpose: ensure that children and youth in homeless situations receive a free, appropriate public education, and remove obstacles that delay enrollment or prevent access.
- ❑ Student remains in home school when feasible.



McKinney-Vento Act, cont.

- ❑ School of Origin defined
 - the school the child or youth attended when permanently housed or the school last enrolled.
- ❑ Once eligible applies for remainder of school year or for the period of homelessness.
- ❑ Transportation must be provided to remain in school



McKinney-Vento, cont.

- Guarantees immediate enrollment in a new school if school moves are necessary. Enrollment cannot be delayed, even if typical documentation is not available.
 - Eliminates typical obstacles:
 - residency and record requirements
 - guardianship requirements
 - Immunizations

 - McKinney-Vento liaisons and state coordinators
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McKinney-Vento and Foster Care

- “Homeless children and youth” includes:
 - children living in emergency or transitional shelters
 - children abandoned in hospitals
 - children “awaiting foster care placement”
 - No federal definition of “children awaiting foster care placement”
 - up to states to determine
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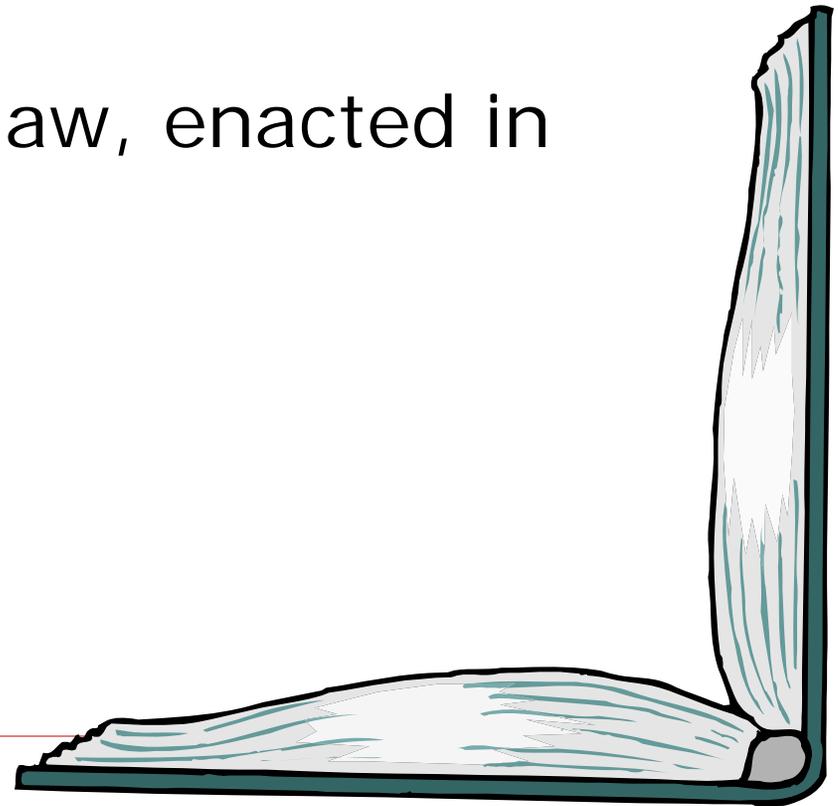
McKinney-Vento Act

- ❑ Several states already provide broad definitions of AFCP:
 - ❑ Delaware law defines “awaiting foster care placement” to include all children in foster care.
 - ❑ Massachusetts and Connecticut have MOUs which extend the protection to some children in care.
 - ❑ Pennsylvania DOE policy advisory extends protection to some children in care.
 - ❑ For a list of all states, please see www.abanet.org/child/education/publications
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Legal Tools for Goals 1 & 2



- Fostering Connections to Success Act (HR 6893)
 - New child welfare law, enacted in October 2008



Fostering Connections Act (HR 6893)



- Has many requirements related to school enrollment and stability.
 - Does not provide all the same protections as McKinney-Vento, but includes some key provisions.
 - First federal law to provide strong mandates for child welfare system to focus on education.
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Fostering Connections, cont.



- Every child's case plan must include "assurances that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement"
- Child welfare agency must coordinate with school to ensure child remains in the home school unless not in the child's best interest.
- Child welfare agency may use federal funds to provide reasonable travel for children to remain in their school of origin.

42 U.S.C. 675(1)(C)

Fostering Connections, cont.

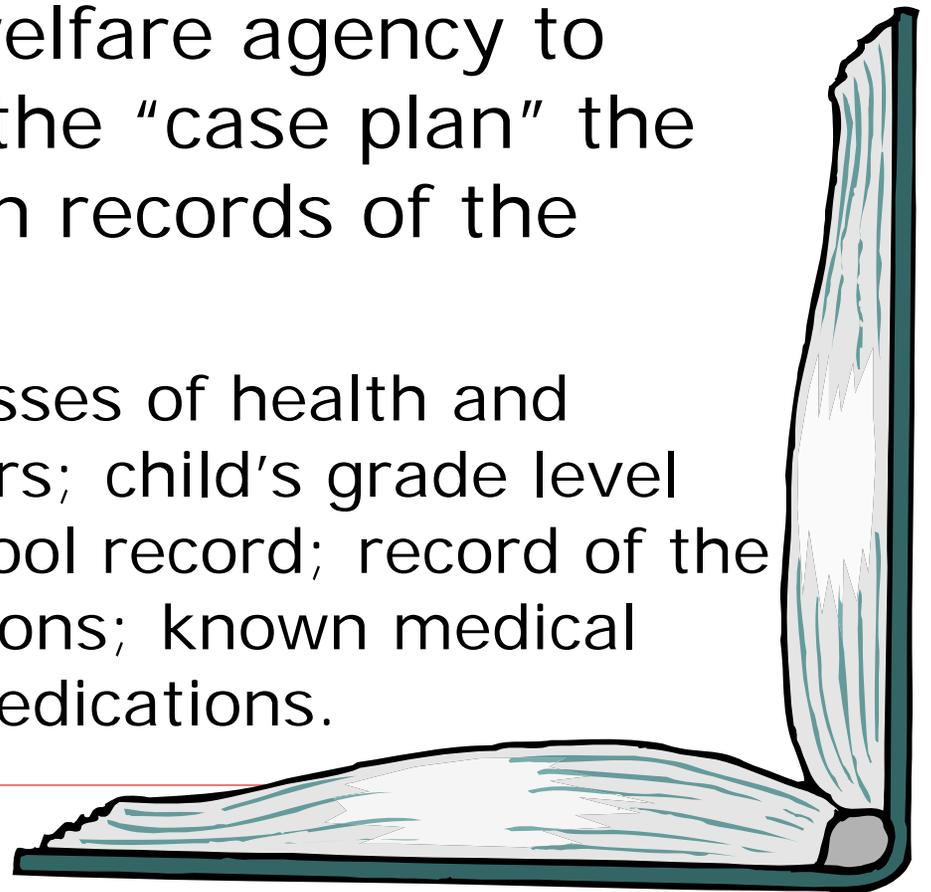


- If remaining in same school is **not** in child's best interests, child's case plan must include assurances that the child welfare agency and local education agency will:
 - provide immediate and appropriate enrollment in a new school; with
 - all of the educational records of the child provided to the school.
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Legal Tools for Goals 1 & 2

Title IV-E of the Social Security Act

- Requires the child welfare agency to maintain as part of the “case plan” the health and education records of the child, including:
 - Names and addresses of health and education providers; child’s grade level performance; school record; record of the child’s immunizations; known medical problems, and; medications.

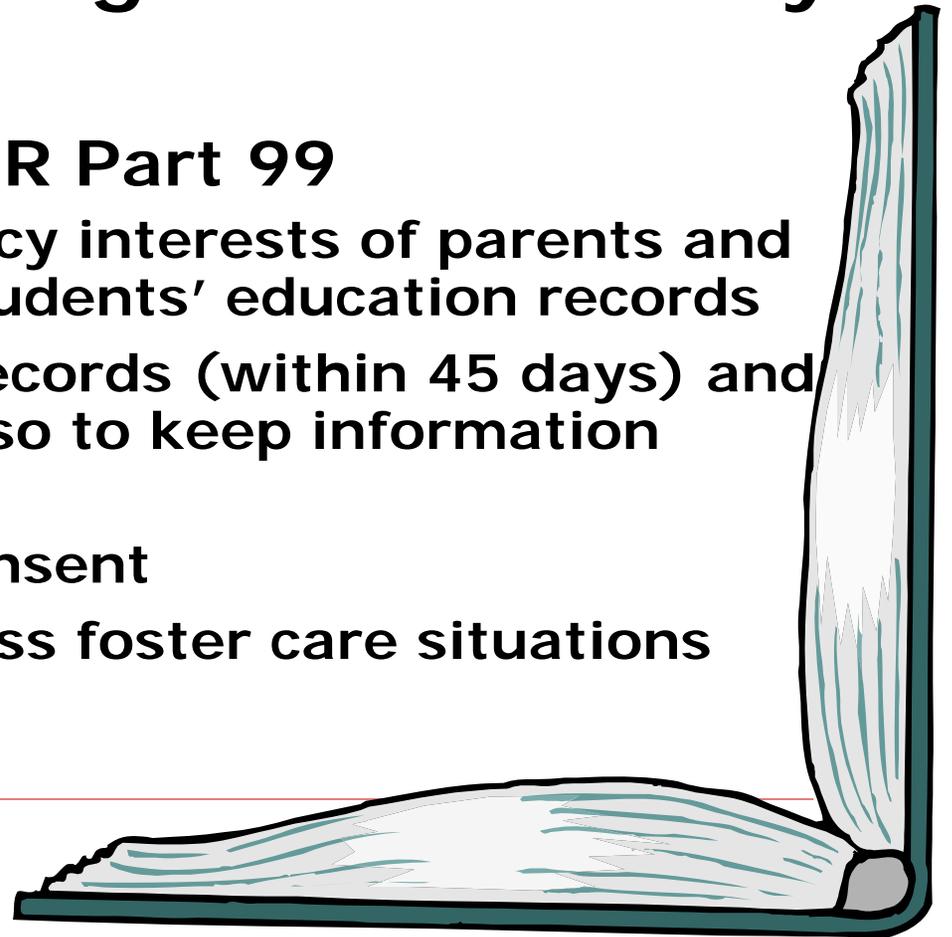


Legal Tools for Goals 1 & 2

Family Educational Rights and Privacy Act (FERPA)

20 U.S.C. § 1233g; 34 CFR Part 99

- ❑ Purpose: to protect privacy interests of parents and students regarding the students' education records
- ❑ Parent's right to access records (within 45 days) and share with others (and also to keep information private)
- ❑ Exceptions to parental consent
- ❑ Doesn't specifically address foster care situations



FERPA, cont.

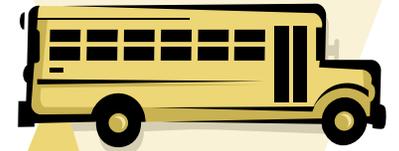
- **Allows for schools to share records with new school without need for parental consent to release records**
 - **Who else can access records (which can help expedite enrollment)?**
 - **Anyone the parent has consented to have access**
 - **Anyone who meets the FERPA definition of parent**
 - **parent or guardian or person acting in the place of a parent in the absence of the parent.**
 - **Anyone determined through a court order to be permitted access**
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What You Can Do



- **Confirm that school stability has been considered and is a priority when making out-of-home placement decisions; raise school stability issues in court when needed.**
 - Ensure that child welfare agency has considered and documented “proximity” and “appropriateness” of school in case plan.
 - Ensure child welfare agency has collaborated with the school to ensure school stability unless not in the child’s best interest.
 - Help identify living placement options that would keep youth in the same school. Seek input of the youth and others.
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What You Can Do



- ❑ **Ensure child receives transportation to school of origin unless not in his best interest.**
 - Identify creative solutions to meet transportation needs.
 - Remind court of child welfare agency's ability to provide "reasonable transportation" to school of origin.
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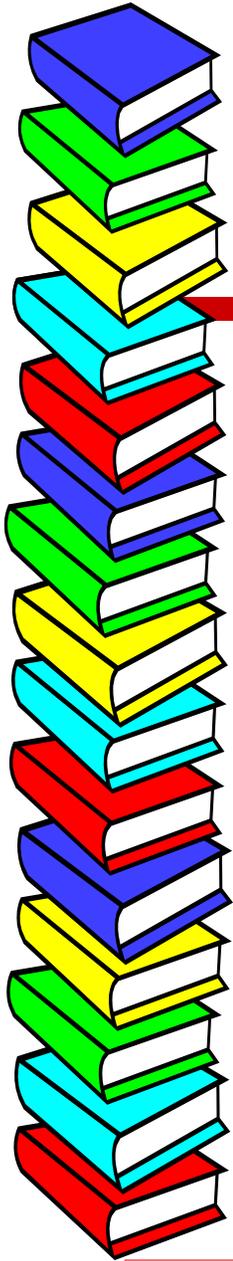
What You Can Do

- **Understand McKinney-Vento rights and dispute procedures when applicable.**
 - Lorraine Husum Allen, Director, State Homeless Education Program
 - (850) 245-0668 / Lorraine.Allen@fldoe.org.
 - National Center for Homeless Education
www.serve.org/nche
 - National Association for the Education of Homeless Children and Youth (NAEHCY)
www.naehcy.org
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What You Can Do



- ❑ **Ensure that child is immediately enrolled in a new school, if remaining in the original school is not in the child's best interest.**
 - Ensure child welfare agency has documented in child's case plan their assurance that child will be immediately enrolled, with records transferred.
 - Understand McKinney-Vento or state enrollment procedures; file complaint if necessary.
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What You Can Do

- **Ensure that child's education record is transferred to the new school.**
 - Call the prior school if necessary.
 - In the case of a school transfer for a child with an IEP, ensure new school receives the records and implements the IEP appropriately.
 - **Maintain enrollment and educational records (including IEPs) relating to the child in your care. Review the records. Ask questions.**
 - **Ensure that all earned credits are transferred.**
 - **Review graduation requirements with youth.**
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Critical Questions for Court



- Who holds education decisionmaking rights?
 - Are complete and up-to-date school records included in the child welfare case file?
 - Is child attending school? Is preschool age child enrolled in early education program?
 - Does placement decision impact school? Have efforts been made to keep child in same school?
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Critical Questions for Court



- Is child performing at grade level?
 - Does the child have any physical, emotional, medical, or mental health issues that may require a special education evaluation?
 - If the child eligible for special education, are services being provided?
 - For age 0-3, has the child been evaluated to determine if he/she has developmental delays warranting early intervention services
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Additional Legal Center for Foster Care and Education Resources

□ www.abanet.org/child/education/publications

- **Data and Information Sharing (Manual and Tools)**
 - **Special Education Decisionmaking Series (includes Attorney Factsheet)**
 - **Monthly Questions & Answer Factsheets about critical issues**
 - **Fostering Connections Implementation Materials**
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Contact Information

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