

Legal Rights and Responsibilities of Youth

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Introduction

- Generally, people think of the law as inaccessible – not easy to comprehend.
- There is perhaps no area of law that is more accessible than the law concerning children – because it derives entirely from:
 - Social and cultural norms concerning the institution of the family; and
 - Generally accepted principle that children need special protection.

Much of the information from this presentation was provided by The Empire State Coalition (www.empirestatecoalition.org)



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Training Goals

- To understand the social policy and key legal concepts relating to the rights and responsibilities of youth in New York State, including:
 - Definition and Rights of Unaccompanied Youth;
 - Emancipation;
 - Person in Need of Supervision (PINS);
 - Persons in Parental Relation;
 - Medical Care;
 - Public Benefits; and
 - Permission for Field Trips, After-School Programs, and Excused Absences from school.



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When does a Child become an Adult?

Different social policies operate in conjunction with the principle that children need special protection.

- How old do you have to be to sign a contract?
- How old do you have to be to give consent to medical treatment?
- How old do you have to be to stay at a shelter?
- How old do you have to be to purchase alcohol?
- How old to be held responsible for criminal acts?
- How old to continue/discontinue to attend school?



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Social/Legal Principles Relating to the Family

- Law governs conduct of adults; Parents govern conduct of children
- Parents should be free to raise children as they see fit without government interference
- Children need special protection



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Legal Obligations within the Family

- | Parent | Child |
|--|--|
| <ul style="list-style-type: none">• Food, clothing, shelter• Education• Nurture• Medical care• Everything Else | <ul style="list-style-type: none">• OBEY |



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Support & Emancipation

“Duty to Support” vs. “Obligation to Obey”

- Parents have a duty to support their children to the extent that they are able. Under common law this duty ceases at majority. In New York the duty is extended by statute until 21.
- When a youth under the age of 21, leaves home because of a refusal to obey reasonable rules set by his or her parents, the youth is beyond parental control and is emancipated. What other circumstance might result in emancipation?
- If the child leaves home under other circumstances or continues to be supported by a parent, the youth may not be emancipated.
- What if the youth applies for public assistance?



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Emancipation (continued)

- Emancipation does not give a minor adult status. It acknowledges certain rights, the most important of which may be the right to a legally established residence separate and apart from the parent or guardian.
 - **BUT**
 - An Emancipated Minor is not allowed to vote;
 - An Emancipated Minor is still required to obtain parental consent to get working papers and is limited in the kinds of jobs he/she can perform;
 - An Emancipated Minor cannot bring a lawsuit;
 - An Emancipated Minor cannot buy, sell or control real estate;
 - Cannot marry without parental or judicial consent;



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Emancipation

- Permanently housed youth can enroll in school in the district in which they reside if they are:
 - Beyond compulsory school age (i.e. between 16 and 18 y.o.);
 - Living separate and apart from their parents with no intent to return home (i.e. beyond the parent's custody and control);
 - Not receiving financial support from their parents; and
 - Not in foster care.
- Will an emancipated youth have a court document establishing his/her emancipated status?
- Emancipated minors in permanent housing are not “homeless” for purposes of McKinney-Vento but their right to attend school is based on their right to establish “residency” independent of their parent or guardian.



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Unaccompanied Youth

Availability of permanent housing does not affect M-V status for UY.

An offer to return home does not mean a youth cannot be considered unaccompanied.

Why not?



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Unaccompanied Youth

- **Definition: Students not in the physical custody of parent or legal guardian are “Unaccompanied Youth.”**
- UY must also meet definition of “homeless” to be covered under McKinney-Vento.
- UY do not need an adult to enroll in school.



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Persons in Parental Relation

By statute, adult caretakers of youth may enroll the youth in the school in which the person in parental relation has residency if the youth's parents are in the following situations:

1. deceased;
2. in prison;
3. mentally ill;
4. committed to an institution;
5. have abandoned or deserted the student (does not require a court order);
6. are living outside the state; or
7. whereabouts are unknown.

QUESTION? What public policies might govern interpretation of this law?



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Person in Need of Supervision (PINS) Statute



- This statute defines a runaway and authorizes a police officer to respond to a parent seeking return of a youth.
- A PINS petition can be filed in Family Court against a minor under the age of 18 who is alleged to be "incorrigible, truant from school, and beyond the lawful control of his/her parents."
- Usually the petition is filed by a parent, guardian, or school official.
- If a minor is found by a court to be a PINS, the court can make orders intended to "rehabilitate" the minor. Principles of least restrictive environment apply. Possible dispositions range from adjournment in contemplation of dismissal to placement in a non-secure facility.



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Addressing School Concerns



- **Fear of liability:**
As a general rule, districts will not be held liable unless school officials act negligently. The standard for assessing the school's conduct is the same, whether a student is permanently or temporarily housed; lack of parental consent should not increase a school district's exposure to liability. Also speak with your school district attorney.
- **Mandatory reporting:**
Even mandatory reporters must (simultaneously) continue to follow the requirements of the McKinney-Vento Act and make educational services available to youth. The laws are not in conflict with one another.
- **Privacy rights, parental authority and FERPA:**
Generally, schools must have written permission to release records. However, schools may release to other schools to which a student is transferring / currently attending (with "reasonable attempt" to notify parents at last known address).



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Permission Slips



Can a school district bar a student in temporary housing from participating in an after-school program, sports activity, or field trip because the student cannot get a consent form signed by a parent?

No!

School districts must provide the same opportunity for temporarily housed students as permanently housed students to participate in such programs, even if a student cannot get a signed permission slip from her parents.

- If the student is residing with an adult caretaker, the district may ask the caretaker to sign the consent form in lieu of a parent signature.

QUESTION? What public policies might govern interpretation of this law?



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Public Benefits



Can a minor receive any form of public assistance (e.g. food stamps) What are the guidelines?

- Any person over the age of 16 can receive public benefits in their own "case".
- New restrictions established under Temporary Assistance to Needy Families (TANF) are making the approval process very difficult for young people. A youth who has no other option may need public assistance; however, the five year lifetime limit to receive assistance will apply. (NY does have state funded safety net assistance.)



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Parental Permission for Medical Care



- In most cases, parental consent is obtained for medical care provided to a youth under 18 years old.
- To date, research does not reveal any cases in which a physician was held liable for treatment that benefited the minor where the minor gave his/her "informed consent." In order for a minor to give "informed consent," the physician should take into account:
 - the age of the patient;
 - the patient's maturity; and
 - the ability of the minor to understand the information being shared.
- In the case of a medical emergency where a delay can lead to complications, a physician has the obligation to treat the minor even in the absence of parental consent.
- A minor may not give consent for most elective procedures.

QUESTION? What public policies govern requirement for parental consent?



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Unaccompanied Youth - Resources




- When Legal Guardians Are Not Present: Enrolling Youth on Their Own www.serve.org/nche/downloads/briefs/guardianship.pdf
- Surviving on Your Own: Information for Youth on How Schools Can Help www.serve.org/nche/products_list.php#youth_booklet
- Alone Without a Home: A State-by-State Review of Laws Affecting Unaccompanied Youth www.nlchp.org
- Legal Tools to End Youth Homelessness www.nlchp.org
- Rights and Responsibilities of Youth in New York State, available from the NYS Bar Association, Law, Youth and Citizenship Program, 518-473-4235



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Additional Resources

- **Rights and Responsibilities of Young People in New York: A Guide for Educators & Human Service Providers**
- **Empire State Coalition** 
<http://www.empirestatecoalition.org/>
- **NCHE Unaccompanied Youth Resources**
http://www.serve.org/nche/ib/sc_youth.php
- **Education and Training Voucher Program** provides up to \$5000 a year for foster youth and former foster youth to enable them to attend college.
<https://www.statevoucher.org/eligibility.xhtml>
- **LeTendre Scholarship for Youth who are Homeless** provides a \$1000 college scholarship to youth who are or who have been homeless.
http://www.naency.org/about_letendre.html



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Thank You



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