

Helping Unaccompanied Youth Navigate the Needs and Wants of Daily Life

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Today's Presentation: A Sampling of Info, Strategies and Tips

- The Legal Framework: Federal and NYS Runaway and Homeless legislation
- Crisis and Transitional Housing and Services for Youths
- Decisionmaking Authority for Unaccompanied Youth
- School Health Certificates
- Immunization, Medical and Mental Health Services
- Public Assistance and Social Security

The Rules of the Day

- NO DISCUSSION about Eligibility as a Homeless Youth
- Assume all scenarios involve Unaccompanied Homeless Youth
- A Caveat and Alert: Laws change and facts vary. Consult your attorneys!!
- Do No Harm: Be a resource, not a lawyer. Be thoughtful about advice to youth about their rights and access to resources.

**NATIONAL RUNAWAY
PREVENTION MONTH 2016**



They Support. They Listen. They Care.

NATIONAL RUNAWAY PREVENTION MONTH

A View from the '70s Onward: A Shift in Philosophy and the Legal Scheme to Help Homeless Youth

- Federal Runaway Youth Act of 1974 (reauthorized by the Reconnecting Homeless Youth Act of 2008)
- New York Runaway and Homeless Youth Act of 1978 (RHYA): NY Executive Law section §§ 532 to 532-e
- The McKinney Act of 1987, which morphs into McKinney-Vento
- Shifting ideas about parental sovereignty, child protection, juvenile justice, and a discrete system of care for runaway/homeless youth

McKinney-Vento versus RHYA

Definitions:

- McKinney-Vento's Unaccompanied Youth: a youth who does not live in the physical custody of a parent or guardian, including those living on their own or with a caretaker who does not have legal custody/guardianship.
- RHYA: A "Runaway Youth" is a person under 18 absent from his or legal residence without the consent of his/her parent, legal guardian or custodian
- RHYA: A "Homeless Youth" is a person under age 21 in need of services and without a place of shelter where supervision and care are available

Key Community-Related Duties of the District Homeless Liaison: Referral and Outreach

- Referrals of families, children and youth to:
 - Health care services
 - Dental services
 - Mental health and substance abuse services
 - “Other appropriate services”
- Dissemination of notices of educational rights of homeless children in locations such as schools, shelters, public libraries, soup kitchens

Your County Department of Social Services: A Key Point of Contact

- Each County has a designated “Runaway and Homeless Youth Service Coordinator”
- Duties include: answering inquiries concerning transportation, shelter and other services available to runaway or homeless youth
- See OCFS Listing of Coordinators by County, which :
See OCFS Program Directory, which includes name of the coordinator in each county:

<http://ocfs.ny.gov/main/youth/rhy/directory.asp>

**SPOILER ALERT FOR
PARTICIPANTS: DO NOT READ
PAST THIS SLIDE YET!!**

- **A QUIZ (A HANDOUT) IS AFOOT!!
PLEASE RESIST THE TEMPTATION TO
READ ON, AS THE ANSWERS WILL
SURFACE TOO SOON!**

A True/False Pre-Test: Question 1

Alicia, age 16, enters the front door of a crisis shelter in her community. She has run away because, once again, her parents got into a major fight and, this time wrecked the living room. Absent compelling circumstances, the staff at the crisis shelter are required to contact her parents within 24 to 72 hours.

TRUE! NY Executive Law § 532-c; 9 NYCRR 182-1.9

NYS RHY Service Array: Residential Services

- Crisis Shelter Programs:
 - Youth Shelters: for youth all under 18 or between ages 16 and 21
 - Interim Family Homes: private homes providing temporary shelter to maximum of two youth under age 21, as part of an interim family program sponsored and supervised by an authorized agency
- Transitional Independent Living Support Programs (TILPs)
 - Group Residence: maximum of 20 homeless youth ages 16 to 21, providing environment to develop and practice independent living skills
 - Supported Residence: maximum of 5 homeless youth ages 16 to 21, providing environment that approximates actual independent living

NYS RHY Non-Residential Services

- Advocacy
- Case Management
- Drop-in Centers
- Educational Services and Vocational Training
- Family Reunification
- Health Care
- Hotlines
- Legal Services
- Recreation
- Street Outreach (for victims of sexual abuse or at risk of abuse)

Let's Do the Numbers (2015 OCFS Annual Report)

- 5,133 youths in NYS admitted to Crisis Shelters or Transitional Independent Living Programs; 362 were young parents accompanied by dependent children
- Outside NYC:
 - Gender:
 - in Crisis Shelters, 57% female; 42% male, 1% transgender;
 - In TILPs, 65% female, 34% male, 1% transgender
 - Race:
 - in Crisis Shelters, 38% Black (non-Hispanic), 37% White (non-Hispanic), 12% Hispanic, and 11% Multiracial admitted to crisis shelters

What Youth Say About Their Needs

- Surveyed Youth Identify their Highest Priorities:
 - Parent/Guardian Conflict, 27%
 - Health/Behavioral Health 23%
 - Education 18%
 - Victim of Abuse/Neglect 8%
- Limits to the Numbers:
 - Only captures youth in residential facilities
 - No identification of high numbers of LGBT Youth
 - Are youth honest? What are risks of full disclosure?

Question 2

In New York, parents are required to provide financial support to an unmarried child until the child reaches age 18.

FALSE!

Obligation of Parental Support

- To age 21, if financially able, NY Family Court Act, § 413
- Children's responsibility, in turn: obey reasonable rules and regulations of the household; lifestyle issues
- In a child support proceeding, courts might (but NOT commonly) relieve a parent of a duty to support when child refuses to obey reasonable parent's rules, to communicate with or visit a parent
- If child leave home involuntarily or because life is unsafe, unbearable, lacks space, utilities, etc., support obligation remains

Question 3

Because Samantha has been financially and otherwise independent for at least six months, she may initiate a Family Court proceeding to obtain an order declaring her emancipated from her parents.

FALSE!

The Laws of Emancipation

- NO statutory basis for initiating action for emancipation in courts in NYS – but court may look at issue in a support or other matter
- Who decides if a child is emancipated? Could be a service provider
- The factors to determine emancipation status:
 - between ages 16 and 18
 - lives separate and apart from parents/guardian, with no intent of returning home
 - economically independent of parents for food, shelter, clothing, etc., but may receive assistance from others, including public assistance, social security, etc.
 - is not in foster care.
- For public assistance: to be treated as emancipated, must also have completed “compulsory education requirement”

What Does a Minor Stand to Gain or Lose through Emancipation?

- Permits PARENTS to RENOUNCE THEIR OBLIGATIONS TO A CHILD!
- Deprives children of the right to demand support, including food, clothing and shelter from a parent
- Permits minors to consent to their own medical treatment (but there are other ways around this challenge)
- Permits minors to apply for public assistance, if minor has met compulsory education requirements (but this may be accomplished without emancipation)
- Also permits minors to retain own wages; to establish a domicile; and to sue for intrafamily torts (such as negligence)

What Does Emancipation NOT Change for Minors? They still cannot:

- enter a binding contract or lease (though a landlord could choose to enter a lease)
- buy, sell or control real estate
- marry, without parental consent
- engage in the occupations barred for minors of a certain age
- obtain an employment certificate, without parental consent
- bring a court action, except in Family Court
- Vote

Question 4

Jackie has left home to live with her cousin. Her mother is mentally ill and is not equipped to take care of her. Jackie wants to participate in intramural sports and attend field trips. Her cousin is legally permitted to serve as Jackie's "parent" or "person in parental relation" so that she can sign consents for Jackie.

TRUE.

Definition of Person in Parental Relation

NY Educ. Law § 3212: “**Person in Parental Relation**” to another individual includes:

- his father or mother, by birth or adoption
- his step-father or step-mother
- his legally appointed guardian
- his custodian

Custodian includes person who “has assumed the charge and care of such individual because the parents or legally appointed guardian of such individual have died, are imprisoned, are mentally ill, or have been committed to an institution, or because they have abandoned or deserted such individual or are living outside the state or their whereabouts are unknown.”

Question 5

Marcus, whose father, George, was recently incarcerated, lives as an unaccompanied homeless youth with his grandmother. She tends to Marcus' daily needs, but is elderly and has limited mobility. Marcus' Aunt Mariah is willing to help out. George (the father) can legally appoint Aunt Mariah to serve as a "person in parental relation" to Marcus.

TRUE!

Parents May Designate a Person to Serve in Parental Relation to their Child for Education and Health

- May designate a person over 18 to make educational and health-related decisions, under Title 15-A of NY General Obligations Law; see sample long form at <http://www.ocfs.state.ny.us/main/Forms/kinship/OCFS-4940%20Designation%20of%20Person%20in%20Parental%20Relationship.pdf>; short form at <http://www.legal-aid.org/media/65971/caregiver%20consent%20form.pdf>
- Medical decisions such as school-based care, immunizations, general medical care and standard procedures, dental care, mental health treatment, health plan enrollment
- Educational decisions such as enrollment, records access, absence excuses, participation in programs, general education and special education evaluations and services
- May designate appointee for up to six months at a time

Question 6

Donovan's parents died when he was a baby and his aunt raised him. She passed away and, after some time on the streets, Donovan now lives in a transitional independent living program (TILP). A teacher has referred Donovan to the Committee on Special Education. The District needs someone to serve as Donovan's parent to consent to evaluations, etc. The District may treat an administrator from the TILP as Donovan's parent, for special education purposes.

TRUE, but the District must appoint this individual as a temporary surrogate parent and explore appointing a permanent surrogate parent.

Definition of Parent in Special Education Law, 8 NYCRR 200.1(ii)

- a birth or adoptive parent
- a legally appointed guardian authorized to act as the child's parent or authorized to make educational decisions for the child (but not the State if the student is a ward of the State)
- a person in parental relation under NY Educ. Law § 3212
- an individual designated as a person in parental relation under Title 15-A of the General Obligations Law including an individual so designated who is acting in the place of a birth or adoptive parent (including a grandparent, stepparent, or other relative with whom the child resides)

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Definition of Parent in Special Education, cont.

- a surrogate parent who has been appointed in accordance with 8 NYCRR 200.5(n)
- a foster parent
- specific person(s) identified in a judicial decree or order to act as the parent or make educational decisions on behalf of the student (except that an agency providing education or care for the student shall not act as parent).

When one or more party is qualified to act as the parent, however, the birth or adoptive parent must be presumed to be the parent unless that parent does not have legal authority to make educational decisions

Appointing a Surrogate Parent

- VERY MEANINGFUL TOOL TO ADDRESS CONSENT/DECISIONMAKING ISSUES FOR CLASSIFIED AND REFERRED STUDENTS IN EDUCATION, MEDICAL AND TRANSITION SERVICES ARENA!!
- Appointment required by Committee on Special Education when:
 - No “parent” (as defined in 8 NYCRR 200.1 (ii)) can be identified
 - After reasonable efforts, the District cannot discover the whereabouts of the parents (in NYC, two attempts at contact suffice) **or the student is an unaccompanied homeless youth**
 - The student is a ward of the state and does not have a “parent” or the judge has “subrogated” the rights of the parent to make educational decisions on behalf of the student (that is, the rights have been assigned to someone else)
- <http://www.naehcy.org/sites/default/files/dl/legis/uhysurrogateparents.pdf>

Temporary Surrogate Parents for Unaccompanied Homeless Youth

- Appropriate staff working with homeless staff may be appointed as temporary surrogate parents for youth, including those working at:
 - Emergency shelters
 - Transitional shelters
 - Independent living programs
 - Street outreach programs
- Will serve as a surrogate until one can be appointed that meets surrogate qualifications

Qualifications to Serve as a Surrogate Parent

- May not be officers, employees or agents of local school district, State Education Department or agency (public, including DSS) involved in the education or care of the student; but may be employee of a nonpublic agency that only provides noneducational care
- Must have no other interest that could conflict with their primary allegiance to the student they represent
- Shall have knowledge and skills that ensure adequate representation of the student

Question 7

Marta is staying at a crisis shelter. At age 17, she very badly wants to work toward getting a driver's license and is frustrated that her father will not go with her to the DMV. A representative of the shelter does not have the authority to facilitate her application and sign the paperwork on her behalf.

FALSE! See

<https://dmv.ny.gov/forms/mv45b.pdf>

The DMV now permits a representative of a facility to accompany a “disenfranchised homeless youth,” to sign the application and to submit this form as proof of a “Statement of Identity.”

Question 8

Seeta, age 14, presently lives with an older brother and is unable to timely produce a required health certificate for her school district. The District is required to refer her to its medical director, who will then conduct a comprehensive “health appraisal” of her – but, first, he will need to obtain parental consent.

False. Almost true, but NO consent needed.

<http://www.p12.nysed.gov/ssd/documents/SchoolHealthExaminationJune2015Rev9-15.pdf>

Question 9

Elijah was born all the way across the state in Putnam County. He has no documents verifying his place or date of birth. By request of his local school district, Putnam County's Board of Health is required to issue a certified transcript of his birth certificate to school authorities.

- TRUE! See NY Education Law § 3212(6)

Question 10

Elena, age 16, has been out of school for years, flying under the radar. She has no physician and no record of immunizations. She does not know which ones she had, which ones she hasn't – and this worries her. She has no health coverage yet. The school counselor advised Elena that she may be excluded soon from school. By law, the school district must soon notify the County Health Department, which must arrange to to immunize her at no cost.

- TRUE.

<http://www.p12.nysed.gov/sss/documents/2017-2018IMMUNIZATIONGUIDELINESFORSCHOOLS.pdf>

Question 11

Jalisa is a 14 year old unaccompanied minor struggling with trauma associated with her violence and sexual abuse that occurred in her home. Jalisa's therapist is permitted to provide her with counseling without notifying Jalisa's parents or obtaining their consent.

TRUE.

Outpatient Mental Health Treatment and Alcohol/Drug Treatment Services

- A minor who is married, is a parent, or is emancipated may be treated without parental consent.
- Mental health providers and substance abuse providers may treat minors WITHOUT PARENTAL CONSENT if:
 - The minor knowingly and voluntarily seeks such services
 - The services are clinically indicated
 - The requirement of parental consent would have a detrimental effect on the course of the out-patient treatment
- The practitioner should fully document the reasons treatment is provided without parental consent.

NY Mental Hygiene Law § 33.21 (re mental health treatment)
and § 22.11 (re alcohol/drug treatment)

Consent for Standard Medical Treatment of a Minor

- Generally requires parental consent for youth under 18
- Consent may be given by a “person in parental relation.” NY Public Health Law § 2504 and defined in § 2164
- No consent required for:
 - Married minors
 - Pregnant minors for prenatal care
 - Emancipated minors
- Physicians do often provide non-emergency care for runaway and unaccompanied youth and unaccompanied youth who lack a person to serve in parental relation without legal consequence

Emergency Medical Care for Minors

- Medical, dental, health and hospital services can be rendered in an emergency
- In physician's judgement, the person is in "immediate need of medical attention and an attempt to secure consent would result in delay of treatment which would increase the risk of the person's life or health." NY Public Health Law § 2504(4)
- Note risk is to HEALTH, not just LIFE
- Legal analysis: no legal cases identified where physicians are held accountable for giving emergency or OTHER CARE to a minor without parental consent

Some Specific Medical Treatments that Do Not Require Parental Consent

- Contraception
- Sexually transmitted diseases and venereal disease, NY Public Health Law §§ 17 and 2305(2)
- Blood Donations, for minors age 17 or over (NY Public Health Law § 3123)
- Abortion (NY Public Health Law § 17: records may not in any manner be made available to the parent or guardian of the minor)

Question 12: Public Assistance

Serenity, age 16, is couch-surfing and has no resources to meet her basic needs, let alone grab a latte at Starbucks with her friends. She will not qualify for public assistance unless she can prove that her parents are unwilling and unable to take her back into their home.

- FALSE.

Teens' Eligibility for Safety Net Public Assistance

- Teens without children may apply
- For unaccompanied minor, Department of Social Services (DSS) is likely to call parents or legal guardian and ask if minor can return home
- If parents say yes, DSS will probably decline and tell minor to return home
- DOES NOT STOP THERE!!
 - Minor may then show it would be harmful to return home, e.g., victim of neglect or abuse, house is overcrowded or without utilities, etc.
- If DSS grants assistance, it may sue parents for child support and then child will have to cooperate with DSS unless good reason not to do so. DSS cannot deny benefits to minor while it sues parent.
- If deny benefits, youth can request a fair hearing

Public Assistance for Unmarried Teen Parents

- For pregnant teens over 18 or teen parents: cannot be denied public assistance because they refuse to return home
- Unmarried teen parents under 18: must live at home or in an “adult supervised supportive living arrangement” as condition for benefits
- Exceptions to this rule include: no parent of the teen is alive or available; parents will not allow the teen to live at home; the minor is a victim of abuse/exploitation; substantial evidence of imminent risk of harm; DSS determines it is in the teen’s best interests not to live with the parent

Minors and Social Security Benefits

- Minors may apply for Child's Insurance Benefits (benefits for children of workers who receive retirement or disability benefits or of deceased workers) or Supplemental Security Income (SSI, based on child's impairment disability and financial need)
- Minors require assistance to navigate the maze and the complex eligibility standards
- Youth who already receive benefits can request a change in their representative payee from parent to another individual. Under certain circumstances, a youth under 18 may be eligible to receive funding directly upon demonstrating the ability to manage the benefits.

National Runaway Prevention Month Toolkit

<https://www.1800runaway.org/wp-content/uploads/2015/05/NRPM-2017-ToolKit-and-Messaging-Guide-2.pdf>