

# How Adolescent Brain Science Supports Youth Engagement in Court Hearings and Case Planning



Federal and state laws increasingly support meaningfully engaging youth in foster care in their case planning and court hearings. This shift over the last decade is largely because of advocacy by youth with lived experience in foster care. Our understanding of adolescent brain development and its relationship to engaging youth in court is also more clearly developed. Adolescent brain science confirms that meaningfully engaging youth in their case planning and court hearings is critical for the child welfare case and, more importantly, for their healthy growth and development.

This guide provides:

- ✓ a basic framework of adolescent brain science,
- ✓ a legal overview of laws relating to youth engagement in case planning and court hearings, and
- ✓ tips for attorneys and judges to engage youth and support their positive development.

## Adolescent Brain Science Overview

[\*The Road to Adulthood: Aligning Child Welfare Practice with Adolescent Brain Development\*](#), published by the Jim Casey Youth Opportunities Initiative of the Annie E. Casey Foundation, outlines the significant shift in brain development science. It builds on the findings of a previous Jim Casey Youth Opportunities Initiative report, [\*The Adolescent Brain\*](#). Building on the previous belief that most brain development happens before age six, science now shows that in addition to the 0-6 period of development there is another equally significant window of brain development during adolescence. This creates an opportunity to support healthy brain development and prepare adolescents for adulthood.



RESOURCE

### **Video:** [Promoting Brain Gains for Youth Emerging From Foster Care](#)

For a look at how life opportunities help shape healthy adolescent brain development and how these opportunities can be compromised for youth in the child welfare system, watch this short video by the Annie E. Casey Foundation.

## The Science

Adolescent brains are malleable. Through brain processes such as thinking, planning, learning, and acting, adolescents and caring adults in their lives have the ability to mold their brains. This ability, known as neuroplasticity, allows adolescents' brains to grow, and even heal from earlier traumas, through experiences such as trying new things, making decisions, learning, and making memories.



## The Three “Rs”<sup>1</sup>

*The Road to Adulthood* summarizes three major aspects of the brain that are especially active and rapidly changing during adolescence, referred to by Dr. Laurence Steinberg as the “3 Rs”: regulation, relationships, and rewards. The “3 Rs” provide a framework for understanding: how adolescent brain development relates to meaningful youth engagement in case planning and court hearings, and how to best support and advocate for adolescents.

**Regulation:** “Neurological research shows us that young people can evaluate risks as well as adults; however, the intensity of dopamine—the pleasure chemical—flooding the brains can easily outweigh consideration of potential negative outcomes. Adolescent brains rely heavily on the emotional center of the brain for decision making, so teens are more likely to engage in risky behavior. However, as adolescents grow into adulthood, their brains begin to shift from the emotional to the prefrontal cortex—responsible for regulating impulses, critical thinking and planning. This means they take context, experience and future implications into account more when making decisions.”<sup>2</sup> Positive experiences during adolescence can “fortify healthy neural connections, develop executive function and stimulate learning and healing.”<sup>3</sup>

**Practical significance:** In foster care, adolescents often face stressful situations resulting in time-pressured decisions. While many adolescents make mature decisions when they have ample time to consult others and return to a calm state (cold cognition), they are also vulnerable to making decisions based on emotional arousal or peer pressure (hot cognition). Examples of hot cognition situations include experiencing abrupt changes in housing, facing discrimination, getting in trouble with peers, and feeling blamed. Court hearings present a “hot cognition” situation if the youth is not prepared or given adequate time to process a judge’s decisions.

- ✓ For a child who has experienced trauma, adequate time for thoughtful decision making and positive experiences that contradict the child’s negative expectations are critical to helping the brain readjust.
- ✓ Court hearings and case-planning meetings that offer positive experiences and meaningful engagement provide valuable opportunities to support adolescent brain development and growth.

**Relationships:** During adolescence, young people experience heightened arousal in the brain regions that are sensitive to social acceptance and rejection. Adolescents are particularly attuned to emotional cues such as facial expressions. Research shows adolescents learn more when they are with their friends and peers. Peer influences can help young people grow together in a nurturing, positive environment.

*Practical significance:* Attorneys and judges working with adolescents should advocate opportunities to develop and maintain healthy, supportive relationships with friends and siblings.

- ✓ Participating in extracurricular activities, social events, and other normalizing activities are critical to supporting these peer relationships.
- ✓ Promoting visitation and positive interactions with siblings and family members is also important.

**Rewards:** “Adolescents are more receptive to reward-based learning than punishment-based learning. Rewards extend beyond gold stars and the promise of a new toy. Things such as peer approval, acceptance, and praise trigger a flood of dopamine into the brain, reinforcing actions and behavior.”<sup>4</sup>

*Practical significance:* Attorneys for youth in foster care can provide a variety of rewards to adolescent clients to encourage good decision making and meaningful participation in case planning and court hearings.

- ✓ In addition to sincere praise and compliments for their participation, rewards may include helping them advocate for increased independence or other experiences adolescents crave, such as visiting new places, going to places alone, and learning to drive.
- ✓ Attorneys can also help advocate for rewards for good decision making and behavior, such as tangible items like gift cards, clothes, or other items. Adolescent brain science makes clear that reward-based learning is more effective than punishment-based learning.

## Authentic Engagement: A Legal Overview

Several laws, including most recently the Family First Prevention Services Act and the Strengthening Families Act, directly reference the need to involve youth in case planning and court hearings. Attorneys for adolescents in foster care should use these laws to guide their advocacy in court and increase youth engagement. Specifically, under federal law:

- **Permanency/transition planning.** The court should consult with the child in an age-appropriate manner about proposed permanency and transition plans. 42 U.S.C.A. § 675(5)(C)(iii).
- **Case planning.** Beginning at age 14, the child welfare agency must document that the youth is consulted when developing the case plan. 42 U.S.C.A. § 675(5)(C)(iv).
- **Support people.** Beginning at age 14, the youth must be allowed to involve two individuals in case planning who are not a foster parent or part of the casework staff. One of these individuals may be an advocate on normalcy issues. 42 U.S.C. § 675(5)(C)(iv).
- **List of rights.** Beginning at age 14, youth must be provided a list of their rights as part of the case-planning process. The list of rights must be part of the case plan and should address “education, health, visitation, and court participation,” the right to discharge documents, and to “stay safe and avoid exploitation.” The case plan must include a signed acknowledgement that the list of rights has been received and “explained to the child in an age-appropriate way.” 42 U.S.C.A. § 675a(b)(1) & (b)(2).



### RESOURCE

For more information on laws that support engaging youth in case planning and court hearings, see:

- [\*Quick Reference Guide: Federal Laws Supporting Youth in Foster Care Transitioning to Adulthood\*](#)
- [\*Issue Brief: The Role of the Court in Implementing the Older Youth Provisions of the Strengthening Families Act\*](#)



## RESOURCE

Federal law recognizes the need for children in foster care to join regular childhood activities to promote their healthy development. For more information and practical guidance on ensuring normalcy activities for children in foster care, see:

- [“Judicial Approaches to Promoting Normalcy for Children in Foster Care”](#)
- [“The Reasonable and Prudent Parent Standard”](#)

## Tips for Attorneys on Ensuring Meaningful Engagement

How can attorneys ensure youths’ involvement in case planning and court hearings is meaningful and supports adolescent brain development?

**Consider the 3 Rs when interacting with and advocating for youth.**

The “3 Rs Framework” referenced above gives us tools to ensure court hearings and case-planning meetings are empowering and engaging for adolescents.

**Regulation:** Based on our understanding of adolescent brain science, we know that adequately preparing adolescents is key to helping them make sound decisions. They must have adequate time, opportunities to consult others, and not be emotionally aroused.

**Relationships:** Given the importance of social acceptance and rejection during adolescence, it is essential that court hearings and case-planning meetings are sensitive to adolescents’ needs. Having a “support person,” mentor, or friend might help. Of course, having a positive relationship with an attorney can help the adolescent feel supported, not judged. Attorneys should be careful to align themselves as professional allies, who are there to support the adolescents not reprimand them. Given the importance of relationships for adolescents, attorneys should consistently ask about peers and relationships, so they can advocate to support positive, normalizing interactions.

**Rewards:** Adolescents are far more receptive to rewards than punishment. Unfortunately, too often youth in foster care are punished for typical adolescent behavior. Despite the increasing focus on “normalcy” for adolescents in foster care, attorneys must be vigilant to focus on reward-based learning and advocate opportunities to make mistakes without punishment. If and when adolescents make mistakes, attorneys must advocate that they are not punished differently than their non-foster care peers. Adolescents in foster care must be allowed to make mistakes without risk of losing living placements or being denied opportunities to learn from their mistakes. One way to support this is for attorneys to help adolescents participate in normalizing activities like extracurriculars, sleepovers, driving a car, and attending parties. Another good strategy to prevent youth in foster care from being unevenly or unfairly disciplined for typical adolescent behavior is to “think about how you would handle this if it were your own child?”

**Consider adolescent brain science when engaging youth in court and case planning.**

Attorneys must work before, during, and after a court hearing or case-planning meeting to meaningfully involve youth and align decisions with adolescent brain science.

*Before the Court Hearing or Case-Planning Meeting*

**Prepare the adolescent.** Steps to take:

- ✓ **Explain the youth’s options and invite questions:** Before making any decisions, the attorney should ensure the youth fully understands his or her choices. Too often, youth are not aware of available options, and adults may assume what the youth wants



without asking and re-asking. Attorneys must offer several opportunities for the youth to ask questions, think things over, and understand what to expect. For example, an attorney for a youth who is deciding whether to be adopted should explain the legal significance of the decision and the possible outcomes multiple times, not just before important court hearings.

- ✓ **Explain court hearing basics:** Seemingly basic information, like what to bring to court, what to wear, who will attend and their roles, and how long the court hearing will take, are important to explain so the youth can prepare and visualize the experience ahead of time.
- ✓ **Help the youth prepare for court participation in advance:** Attorneys must also work with youth to think about what they want to share in court and how. Some youth may prefer to speak openly, while others may prefer a smaller meeting with the judge. Some might prefer to write a letter, or have an attorney speak on their behalf. The most important thing an attorney can do is prepare ahead of time, and with full transparency, so youth feel supported and like equal partners in the process. Youth must feel empowered to decide what to share, what to request, and the most comfortable way to do so. Doing this long before the court hearing gives youth the chance to think things over and ask questions before the heightened emotional time of hearings. Working with youth to write an outline of thoughts or questions helps them organize and prepare in advance.
- ✓ **Make youth feel comfortable:** Attorneys should also prepare youth for court in a comfortable place, where they can share freely and not be emotionally aroused. As one adult with experience in foster care shared, “My attorney didn’t try to talk to me about serious things at my group home. Instead, she would meet me at Starbucks where I felt safe and normal.”

#### **Prepare adults in the youth’s life.**

- ✓ **Educate and discuss adults about adolescent brain science.** In addition to preparing the client for court, attorneys for youth in foster care should also educate and discuss adolescent brain science with adults who play a role in the youth’s life, such as parents, judges, caseworkers, foster parents, and educators. Attorneys should also be proactive about communicating with other adults in the youth’s life.

*During the Court Hearing or Case-Planning Meeting*

**Ensure the youth feels heard and understood.** Youth must have opportunities to communicate directly and ask questions, particularly if they do not understand something.



#### **RESOURCE**

### **Youth in Court Resources**

The following written materials offer guidance and insights on engaging youth in court.

#### **Articles**

- [“With Me, Not Without Me: How to Involve Children in Court”](#)
- [“Seen and Heard: Involving Children in Dependency Court”](#)
- [“Seen, Heard and Engaged: Children in Dependency Court Proceedings”](#)

#### **Research & Tools**

- [Youth in Court State-by-State Summary](#)
- [New Jersey Youth Engagement Pilot: Summary Report](#)

For more resources, visit the ABA Center on Children and the Law’s Youth Engagement Project [website](#).



## RESOURCE

### Adolescent Brain Science in Practice

The following resources offer guidance on applying adolescent brain science when engaging youth in court and case planning.

- [Adolescent Brain Science Case Scenarios](#)
- [Brain Frames: How Attorneys Can Engage Youth in Case Planning and Court Hearings](#)

Attorneys and judges should avoid legal jargon or acronyms, and make sure questions are not abstract. An example of an abstract question is “How well do you get along with your family?” compared to the more direct, “Do you see your mom and dad? What things do you like to do with them? Do you wish you could see them more?”<sup>5</sup> For all children, but particularly adolescents, attorneys and judges should publicly praise accomplishments, and offer opportunities for the court to hear about the youth’s needs, interests, and goals.

#### *After the Court Hearing*

**Review and plan next steps with the adolescent.** At the end of each hearing, attorneys working with adolescents should:

- Ensure the youth understands what was ordered and why. Offer the opportunity to ask questions, then check in later for additional questions or clarifications.
- Set aside time to meet with the youth to help them process what happened in court and their emotions.
- Check in between hearings to see how the youth is managing challenges resulting from court orders or changes in circumstances. Ask the youth about goals and set a timeline for completing them before the next court hearing.
- Encourage the youth to attend the next hearing.
- Consult with the youth when setting the time for the next hearing.
- Tell the youth what steps must be taken before the next hearing.

### Conclusion

Meaningfully engaging youth in court hearings and case planning is not a new concept. Advocacy over the last decade is resulting in changes to federal law that specifically support engaging adolescents in foster care. A growing body of scientific research on adolescent brain development is also informing legal advocacy and decision making on behalf of youth in foster care. Youth and young adults with lived experience in foster care have been telling us what works, and what doesn’t. While the child welfare and court systems are working hard to better engage and empower adolescents, many changes are still needed. Attorneys and judges can make a significant impact, and work as partners with adolescents in care to support their successful transitions to adulthood.

#### **Endnotes**

1. This section is drawn largely from: Annie E. Casey Foundation. [The Road to Adulthood: Aligning Child Welfare Practice with Adolescent Brain Development](#), July 22, 2017, 10-11.
2. Ibid.
3. Ibid.
4. Ibid.
5. For more information about questioning children, see Anne Graffam Walker, [Handbook on Questioning Children: A Linguistic Perspective](#), 3d ed., ABA Center on Children and the Law, 2013.

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