

# ENSURING EDUCATIONAL STABILITY FOR CHILDREN IN FOSTER CARE

## KEY ESSA PROVISIONS

In December 2015, Congress passed the Every Student Succeeds Act (ESSA), which instituted new protections for children in foster care. These provisions require SEAs and LEAs to work with child welfare agencies to ensure the educational stability of children in foster care.

- Children in foster care remain in the school of origin, unless it is determined that it is not in his or her best interest
- If it is not in the child's best interest to remain in the school of origin, the child must be immediately enrolled in the new school even if they don't have the required documentation.
- LEAs must collaborate with the Department of Child and Family Services (DCFS) to develop and implement clear written procedures for how transportation will be provided, arranged, and funded for the duration of a child's time in foster care.
- LEAs must designate a point of contact for DCFS if DCFS notifies the LEA, in writing, that it has designated a point of contact.



**Children and youth in foster care represent one of the most vulnerable student subgroups in this country.** Perhaps one of the greatest educational difficulties that these children face is a much higher level of residential and school instability than their peers. These unplanned school changes may be associated with delays in a child's academic progress. In fact, these students are much more likely than their peers to struggle academically and fall behind in school. They are less likely to graduate, score lower on assessments, and show less progress in scores over time.

**ESSA provisions** make clear that the educational stability of children in foster care is a joint responsibility of educational and child welfare agencies. These agencies must collaborate to ensure the educational stability of children in foster care, including providing assurances that a child in foster care will enroll or remain in his or her school of origin\* unless a determination is made that it is not in the child's best interest to do so.

**When a determination is made** that it is not in the child's best interest to remain in the school of origin, the child must be immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment. The enrolling school must immediately contact the school last attended by the child to obtain relevant academic and other records.

## BEST INTEREST DETERMINATION

When making a best-interest determination for school stability for a child in foster care, the following core factors should be taken into consideration:

- Appropriateness of the current educational setting
- Preferences of the child
- Preferences of the child's parent(s) or ed decision maker(s)
- The child's attachment to the school, including meaningful relationships with staff and peers
- Placement of the child's sibling(s)
- Influence of the school climate on the child, including safety

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\*The school of origin is the school in which a child is enrolled at the time of placement in foster care. If a child's foster care placement changes, the school of origin would then be considered the school in which the child is enrolled at the time of the placement change.

- The availability and quality of the services in the school to meet the child’s educational and socio-emotional needs
- History of school transfers and how they have impacted the child
- How the length of the commute would impact the child, based on the child’s developmental stage
- Whether the child is a student with a disability under the IDEA who is receiving special education and related services or a student with a disability under Section 504 who is receiving special education or related aids and services and, if so, the availability of those required services in a school other than the school of origin
- Whether the child is an EL and is receiving language services, and, if so, the availability of those required services in a school other than the school of origin, consistent with Title VI and the EEOA
- Proximity of placement

*Best interest determinations should **not** include consideration of transportation costs.*

## OTHER LEGISLATION

### Utah Code 53A-2-207

- A student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services.

### H.B. 358 Student Privacy Amendments

- A student data manager may share a student's personally identifiable student data from a cumulative record with a caseworker or representative of the Department of Human Services.

## TRANSPORTATION

Some children in foster care will require transportation to remain in their school of origin when it is determined to be in their best interest. LEAs should collaborate with their local foster care point of contact. If a cooperative and cost-effective transportation plan cannot be established, LEAs should contact the state-level foster care point of contact and the Utah State Board of Education (USBE) foster care point of contact. The LEA must provide or arrange for adequate and appropriate transportation to and from the school of origin while any disputes are being resolved.

## IMMEDIATE ENROLLMENT AND RECORDS TRANSFER

When a determination is made that remaining in the school of origin is not in a child's best interest, SEAs and LEAs must ensure that a child in foster care is immediately enrolled in his or her new school even if the student does not have the required documentation.

The enrolling school must then contact the student's prior school for relevant records and should continue to work with the student's caseworker until records are obtained. LEAs should review and revise policies and practices to remove any barriers to immediate enrollment and records transfer for children in foster care.

### Additional Information:

Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care

<https://www2.ed.gov/policy/elsec/leg/essa/edhhsfoster-care-nonregulatorguide.pdf>

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