Fostering Connections: Joint Guidance for Ensuring School Stability of Children in Foster Care

DRAFT
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Introduction

Many studies show that without educational stability, foster care children and youth are often left vulnerable to a host of adverse situations. In 2014, there were more than 400,000 children and youth across the United States in foster care. Over 3,500 of those children and youth were in South Carolina.

Children in foster care experience much higher levels of residential and school instability than their peers. One study showed that seventy-five percent of children in foster care made an unscheduled school change in one school year, compared to less than forty percent for children not in foster care. The educational impact of such change is significant. Entering a new school means adjusting to different curricula, different expectations, new friends, and new teachers. These changes and adjustments can often lead to negative educational outcomes for students placed in foster care, such as the following:

- Delays in academic progress,
- Fewer opportunities for academic achievement, increasing the risk for dropping out of school, and
- Challenges in developing and sustaining supportive relationships with teachers and peers.

In addition, when compared to other youth in the United States, foster care children and youth who lack educational stability are more likely to suffer from mental health problems, live in poverty, and many become homeless.

Remaining in the school in which the child is enrolled at the time of placement in foster care:

- Provides continuity in education,
- Maintains important relationships at the school,
- Provides stability during a traumatic time for the child, and
- Improves the chances of successful completion of high school.

Recognizing the unique needs of children in foster care, states and the federal government have launched efforts in recent years to increase the educational stability of and to improve educational outcomes for these youth. The passage of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act) was a significant step towards
supporting the importance of school stability for children in foster care in federal law. The legislation requires child welfare agencies to collaborate with educational agencies to keep children in foster care in the same school when living placements change, if remaining in that school is in their best interest. The *Fostering Connections Act* also requires child welfare agencies to ensure that children in foster care who do change schools are promptly enrolled in a new school, with the relevant school records.

In December 2015, Congress passed the *Every Student Succeeds Act (ESSA)*, which reauthorized the *Elementary and Secondary Education Act of 1965 (ESEA)*, and built on the legislative successes outlined above by instituting new protections for children in foster care. These provisions, which take effect on December 10, 2016, complement those in the *Fostering Connections Act* and require state education agencies (SEAs) and local education agencies (LEAs) to work with child welfare agencies (CWAs) to ensure the educational stability of children in foster care.

The foster care provisions of Title I, Part A (Title I) of the ESEA emphasize the importance of collaboration and joint decision-making between CWAs and educational agencies. While these provisions do not create new requirements for CWAs, they mirror and enhance similar provisions in the *Fostering Connections Act*. Accordingly, educational stability of children in foster care is the joint responsibility of educational and CWAs, and to successfully implement these provisions, the South Carolina Department of Education (SCDE) and the South Carolina Department of Social Services (SCDSS) have worked collaboratively to create joint guidance for ensuring school stability for children in foster care.

The SCDE and the SCDSS hope that this guidance is a useful tool that helps LEAs and local CWAs to build on this success. Finally, we encourage educational and child welfare agencies to consider other ways to support and facilitate successful transitions that lead to stable college and career paths.
Federal and State Statutory Requirements

Fostering Connections to Success and Increasing Adoptions Act of 2008

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351, Fostering Connections Act) requires children welfare agencies to provide:

(i) assurances that each 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; and

(ii)(I) an assurance that the State agency has coordinated with the appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or (II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

Every Child Succeeds Act (ESSA) of 2015

The Every Child Succeeds Act (ESSA) of 2015, which reauthorized the Elementary and Secondary Education Act of 1965, reflects and reinforces the provisions set forth previously in the Fostering Connections Act. The ESSA law (P.L. 114-95, Sec.1111(c)) requires that each state plan shall describe:

Collaboration

(E) the steps a State educational agency will take to ensure collaboration with the State agency responsible for administering the State plans under parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) to ensure the educational stability of children in foster care, including assurances that—

Best Interest Determination

(i) any such child enrolls or remains in such child’s school of origin, unless a determination is made that it is not in such child’s best interest to attend the school of origin, which decision shall be based on all factors relating to the child’s best interest, including consideration of the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;
**Immediate Enrollment**

ii) when a determination is made that it is not in such child’s best interest to remain in the school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment; iii) the enrolling school shall immediately contact the school last attended by any such child to obtain relevant academic and other records; and

**Point of Contact**

iv) the State educational agency will designate an employee to serve as a point of contact for child welfare agencies and to oversee implementation of the State agency responsibilities required under this subparagraph, and such point of contact shall not be the State’s Coordinator for Education of Homeless Children and Youths under section 722(d)(3) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(d)(3));

**Assurances**

c) ASSURANCES.—Each local educational agency plan shall provide assurances that the local educational agency will—

(5) collaborate with the State or local child welfare agency to— ‘‘(A) designate a point of contact if the corresponding child welfare agency notifies the local educational agency, in writing, that the agency has designated an employee to serve as a point of contact for the local educational agency; (ESSA, P.L. 114-95, Sec. 1112(c))

**Transportation**

‘‘(B) by not later than 1 year after the date of enactment of the Every Student Succeeds Act, develop and implement clear written procedures governing how transportation to maintain children in foster care in their school of origin when in their best interest will be provided, arranged, and funded for the duration of the time in foster care, which procedures shall—

‘‘(i) ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with section 475(4)(A) of the Social Security Act (42 U.S.C. 675(4)(A)); and

‘‘(ii) ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the local educational agency will provide transportation to the school of origin if—

‘‘(I) the local child welfare agency agrees to reimburse the local educational agency for the cost of such transportation;

‘‘(II) the local educational agency agrees to pay for the cost of such transportation; or

‘‘(III) the local educational agency and the local child welfare agency agree to share the cost of such transportation; (ESSA 1112(c)(5)(B))
(ii) To ensure that children in foster care promptly receive transportation, as necessary, to and from their schools of origin when in their best interest under section 1112(c)(5)(B) of the Act, the SEA must ensure that an LEA receiving funds under Title I, part A of the Act will collaborate with State and local child welfare agencies to develop and implement clear written procedures that describe:

(A) how the requirements of section 1112(c)(5)(B) of the Act will be met in the event of a dispute over which agency or agencies will pay any additional costs incurred in providing transportation; and

(B) which agency or agencies will initially pay the additional costs so that transportation is provided promptly during the pendency of the dispute.

**Reporting**

Section §200.34(e)(2) requires a State to include children with disabilities, English learners, children who are homeless, and children who are in foster care in the respective subgroup for the limited purpose of reporting the adjusted cohort graduation rate under the ESEA, if such students were identified as a member of the subgroup at any time during the cohort period.5

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Collaboration

**Educational Stability**

New requirements under Title I of the ESEA, as amended by the ESSA, highlight the need to provide educational stability for children in foster care, with particular emphasis on collaboration between SEAs, LEAs, and CWAs to ensure that students in foster care have the opportunity to achieve at the same high levels as their peers. These provisions emphasize the importance of limiting educational disruption by keeping children who move in foster care (due to entering the foster care system or changing placements) in their schools of origin; unless the determination is made that the change is in their best interests. These provisions also ensure that, if remaining at the school of origin is not in their best interests, that children in foster care are enrolled in their new schools without delay. In implementing these provisions, SEAs, LEAs, and CWAs must ensure compliance with other applicable laws, such as Title VI of the Civil Rights Act of 1964 (Title VI), the Individuals with Disabilities Education Act (IDEA), and Section 504 of the Rehabilitation Act of 1973 (Section 504), among others.

**Responsibilities for Foster Care Liaisons**

In an effort to ensure collaboration among agencies, the SCDE has designated a SEA Foster Care Point of Contact (POC), or liaison. Responsibilities for the **SEA POC** include the following activities:

- Monitoring LEAs and coordinating with the state CWA to issue state guidelines,
- Establishing uniform criteria around best interest determination and guidelines for transportation procedures,
- Facilitating data sharing with state and tribal CWAs, and
- Providing professional development opportunities for LEA POCs.

In addition to a state foster care point of contact, each LEA must designate a POC. Responsibilities for the **LEA POC** include the following activities:

- Coordinating with local CWAs to develop a process for implementing ESSA provisions,
- Leading the development of best interest determination process,
- Facilitating the transfer of records and immediate enrollment and data sharing with CWAs, and
- Developing and coordinating local transportation procedures.

Contact information for foster care liaisons can be found by visiting the SCDE or the SCDSS websites.
**RESPONSIBILITIES FOR CHILD WELFARE AGENCIES**

In addition to collaborating with the SEA and local LEA’s, a CWA administering plans under Title IV-E and IV-B of the Social Security Act is required to include a plan for ensuring the educational stability of a child in foster care in the child’s case plan (the educational stability plan).

This plan must include the information listed below:

1) An assurance that each 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 was enrolled at the time of placement; and

2) An assurance that the CWA has coordinated with the LEA(s) to ensure the child can remain in that school, or if remaining in that school is not in the child’s best interest, an assurance that the child will be enrolled immediately in a new school and that the new school obtains relevant academic and other records.

These assurances relate to the circumstances at the time of the child’s initial placement into foster care, as well as to each time a child moves to a different foster care placement. (See Section 475(1)(G) of the Social Security Act.)

The educational stability plan must be a written part of the child’s case record, which is jointly developed with the child’s parents no later than sixty days after a child’s removal from the home, and every six months thereafter. The CWA has the flexibility to determine which factors will be examined in determining whether remaining in the school of origin is in the child’s best interest, but the cost of school transportation should not be a factor in determining the best interest of the child for the purposes of school selection.

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6 The definition of “parent” in the ESEA includes “a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare).” (See ESEA section 8101(38)).
The requirements for ensuing educational stability for children in foster care under section 1111(g)(1)(E) apply to all children in foster care enrolled in schools in the SEA. Consistent with the Fostering Connections Act, “foster care” means 24-hour substitute care for children placed away from their parents or guardians and for whom the CWA has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and preadoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the state, tribal or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is federal matching of any payments that are made. (45 C.F.R. § 1355.20(a)).

Under Title I, the term “children” includes children through age 21 who are entitled to a free public education through grade 12. (34 C.F.R. § 200.103(a)(1)).
**School Placement Process for Child in Foster Care**

A child in foster care has an initial placement or change in residence.

The local CWA notifies the current school district that the child will be moving to a new residence.

**Best Interest Determination**

The CWA and the child’s current school district jointly determine the child’s best interest for school placement, in consultation with the child, if appropriate, and other key partners. The meeting should take place as quickly as possible (within 3 school days). The child remains in the same school during that time. The meeting is to be conducted with the IEP team for students with disabilities, following FAPE determination as appropriate (See Appendix in SC joint guidance for resources to help guide the best determination meeting.)

If the determination is made that the child is to remain in the school of origin…

Transportation options are considered during the best determination meeting. If additional costs are incurred in providing transportation to school of origin, the local CWA and LEA should work collaboratively to determine which agency or agencies will pay the additional costs. (See transportation section in guidance for more details.)

**Transportation Dispute**

If an agreement cannot be made, refer to the *Transportation Dispute Resolution Process* in guidance. During the dispute, refer to the *LEA’s Written Procedures*, developed jointly with the local CWA, which must describe how transportation will be provided and funded during the pendency of a dispute.

If the determination is made that the child will transfer to school of residence…

Student is immediately (next school day) enrolled in school of residence using immediate enrollment forms (see appendix in SC guidance).

School of residence immediately enrolls the student.

School of origin expedites transfer of school records to new school. (Within 3 school days)
**Best Interest Determination**

**School of Origin**

The school of origin is the school in which a child is enrolled at the time of placement in foster care. An LEA must ensure that a child in foster care remains in his or her school of origin unless a determination is made that remaining in the school is not in the child’s best interest. (ESEA section 1111(g)(1)(E)(i)). 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.

LEAs must collaborate with local CWAs to ensure that each child in foster care remains in his/her school of origin if the determination is made that remaining in his/her school of origin is in his/her best interest for the duration of the child’s time in foster care (ESEA sections 1111(g)(1)(E)(i) and 1112(c)(5)), consistent with the educational stability requirements under the Fostering Connections Act.

*While these requirements no longer apply once a student has exited foster care, LEAs are encouraged to prioritize educational stability for these children. In addition to benefiting academically from school continuity, during times of transition out of foster care, enabling youth to maintain connections with their peers, teachers, and other supportive adults at school is important. For example, a child that exited foster care during the school year shall be allowed to continue in the school of origin through at least the end of the academic year, if appropriate.*

**Best Interest Determination Process**

An LEA, in collaboration with the local CWA, must take into consideration all factors relating to a child’s best interest when determining whether remaining in his/her school of origin is in the child’s best interest. These factors include the appropriateness of the current educational setting and the proximity of placement. (ESEA section 1111(g)(1)(E)(i)).

LEAs and CWAs have flexibility in determining which factors should be considered as part of evaluating the appropriateness of the current educational setting, as well as any additional factors that pertain to a child’s best interest. Though the specific factors may vary depending on context, in order to make a holistic and well-informed determination, a variety of student-centered factors should be considered. These factors may include the following elements:

- Preferences of the child;
- 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;
- The availability and quality of the services in the school to meet the child’s educational and socioemotional needs;
- History of school transfers and how they have impacted the child;
Transportation costs should not be considered when determining a child’s best interest, which is consistent with the passage of the Fostering Connections Act.

*See Appendices A, B, & C for best interest determination form and checklist, question guide, and immediate enrollment form.

**WHO SHOULD BE INVOLVED?**

The LEA and local CWA should work collaboratively to develop a clear policy or protocol on how to make best interest determinations. Every effort should be made to gather meaningful input from relevant parties, in addition to required child welfare and school representatives, in deciding what school placement is in a child’s best interest. The school representative(s) could be a teacher, counselor, coach, or other school employee that could provide knowledgeable feedback regarding the impact that changing schools would have on the child’s academic, social, and emotional well-being.

The LEA and local CWA should also consult other relevant parties, such as the child, if appropriate, foster parents or placement providers, biological parents when appropriate, educational decision maker(s), and other relatives for their perspective on which school the child should attend during his/her time in foster care, consistent with the child’s case plan.

If a child has an IEP or a Section 504 plan, then the relevant school staff members would also need to participate in the best interest determination process. If the child is an English learner, appropriate educators may also need to be involved in the best determination process.

**TIMELINE**

The local CWA and LEA should make the best interest determination as quickly as possible in order to maintain as much educational stability as possible for the child. The best interest determination meeting should take place within three school days, if possible. To the extent feasible and appropriate, the child must remain in his/her school of origin while this determination is being made. (ESEA section 1111(g)(1)(E)(i)).

**BEST INTEREST DETERMINATION DISAGREEMENT**

Both LEAs and local CWAs offer valuable perspectives during a best interest determination. Recognizing this, both the Fostering Connections Act and Title I require collaboration between the agencies to ensure the educational stability of children in foster care. LEAs and CWAs should make every effort to reach an agreement regarding appropriate school placement of
children in foster care. However, if there is a disagreement, *Non-Regulatory Guidance* states that the child welfare agency should be considered the final decision maker in making the best interest determination\(^8\) (question 18).

LEAs and local CWAs should develop a dispute resolution process at the local level for parties to address disagreements over the best interest determination among parents, education decision makers, and other important stakeholders. Since the best interest determination process involves input from multiple parties, a clear dispute resolution process may help to clarify a complicated process and enable parents and families to address disagreements about school placement in an orderly manner.

A child must remain in his/her school of origin while disputes are being resolved to the extent feasible and appropriate to minimize disruptions and reduce the number of moves between schools (ESEA section 1111(g)(1)(E)(i)).

For more information regarding the dispute resolution, see the Best Interest Determination Dispute Resolution section in this document.

**SPECIAL CONSIDERATIONS FOR ENGLISH LEARNERS (ELs)**

The LEA must ensure that it complies with its obligations under Title VI\(^9\) and the Equal Educational Opportunities Act of 1974 (EEOA),\(^10\) which require public schools to ensure that all EL students, including EL students in foster care, can participate meaningfully and equally in educational programs. In order to meet their obligations under Title VI and the EEOA, LEAs must engage in the following activities:

- Identify and assess all potential EL students in a timely, valid, and reliable manner;
- Provide EL students with a language assistance program that is educationally sound and proven successful;
- Sufficiently staff and support the language assistance programs for EL students;
- Ensure that EL students have equal opportunities to meaningfully participate in all curricular and extracurricular activities;
- Avoid unnecessary segregation of EL students;
- Ensure that EL students with disabilities are evaluated in a timely and appropriate manner for special education and disability-related services and that their language needs are considered in these evaluations and delivery of services;
- Meet the needs of EL students who opt out of language assistance programs;
- Monitor and evaluate EL students in language assistance programs to ensure their progress with respect to acquiring English proficiency and grade level core content, exit EL students from language assistance programs when they are proficient in English, and monitor exited students to ensure they were not prematurely exited and that any academic deficits incurred in the language assistance program have been remedied;
- Evaluate the effectiveness of a school district’s language assistance program(s) to ensure that EL students in each program acquire English proficiency and that each program was


reasonably calculated to allow EL students to attain parity of participation in the standard instructional program within a reasonable period of time; and

- Ensure meaningful communication with limited English proficient (LEP) parents.

Additional information about states’ and school districts’ legal obligations under Title VI and the EEOA can be found in a [DCL about EL students and LEP parents](#) jointly released by the United States Department of Education and Department of Justice.
Transportation

ESSA requires LEAs that receive ESSA Title IA funds and local CWAs collaborate to develop and implement clear written procedures governing how transportation to maintain children in foster care in their school of origin when in their best interest will be provided, arranged, and funded for the duration of the children’s time in foster care.

Transportation procedures must describe the following:

- How the requirements of section 1112(c)(5)(B) of the Act will be met in the event of a dispute over which agency or agencies will pay any additional costs incurred in providing transportation; and

- Which agency or agencies will initially pay the additional costs so that transportation is provided promptly during the pendency of the dispute.

*Note that Title IA’s new transportation procedures apply to all children in foster care for the duration of their time in foster care.¹¹

**LEA Written Transportation Requirements**

To ensure that foster care children receive transportation and that both the LEA and child welfare agencies are working to ensure educational stability, written transportation procedures should include the following:

1. **An assurance** that each 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 was enrolled at the time of placement.

2. **An assurance** that the child welfare agency has coordinated with the LEA(s) to ensure the child can remain in that school, or if remaining in that school is not in the child’s best interest, an assurance that the child will be enrolled immediately in a new school and that the new school obtains relevant academic and other records within three school days.

3. **Describe** how the child welfare agency is implementing its requirements to develop a plan for ensuring the educational stability of each child in foster care, including ensuring that each placement of every child takes into consideration the proximity to the school of origin (see the Fostering Connections to Success and Increasing Adoptions Act).

4. A description of the **process** used by the LEA and local CWA to develop and implement clear written transportation procedures.

¹¹ Non-Regulatory Guidance defines the term “foster care” as follows: 24-hour substitute care for children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and preadoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made….“ Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care, Question 1.
5. An **assurance** that children in foster care needing transportation to the school of origin will promptly receive it.

6. A **description** of how the requirements of section 1112(c)(5)(B) of the Act will be met in the event of a dispute over which agency or agencies will pay any additional costs incurred in providing transportation.

7. An **explanation** of which agency or agencies will initially pay the additional costs so that transportation is provided promptly during the pendency of the dispute.

8. An **explanation** of how transportation is provided in a cost-effective manner.

9. A list of potential transportation options available to the school of origin in situations where there are no additional costs.

10. A **description** of the process that will be used to calculate additional costs\(^\text{12}\) of transportation in the event that additional costs are incurred.

**WHO SHOULD BE INVOLVED IN DEVELOPING THE TRANSPORTATION PROCEDURES?**

In addition to the ESSA, federal child welfare law requires CWAs to coordinate with LEAs on providing school stability for children in foster care. The local child welfare point of contact must be involved in developing the transportation procedures for the LEA.

The procedures governing school of origin transportation for children in foster care are part of the LEA Title I Part A plan. Therefore, in addition to the LEA Foster Care POC, it is recommended that the LEA Title I Director be involved in developing the procedures.

To ensure the procedures are appropriate and reasonable, the LEA Foster Care POC should consult and coordinate with other federal program staff, including special education and McKinney-Vento staff, as well as the transportation director. Involving LEA leadership, including the superintendent and school board, may also be appropriate.

**CONSIDERATIONS WHEN DEVELOPING THE PLAN**

Non-Regulatory Guidance defines “additional costs” as “the difference between what an LEA otherwise would spend to transport a student to his or her assigned school and the cost of transporting a child in foster care to his or her school of origin.” Considerations in making this calculation should include the following:

- Under what circumstances does the LEA typically provide transportation to students?
- Is the student in foster care eligible for transportation from the LEA for some other reason, such as having a disability?

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\(^{12}\) Additional costs incurred in providing transportation to the school of origin should reflect the difference between what an LEA otherwise would spend to transport a student to his or her assigned school and the cost of transporting a child in foster care to his or her school of origin. U.S. Departments of Education and Health and Human Services (2016). Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care, Question 27.

\(^{13}\) Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care, Question 27.
• How can the LEA calculate a standard cost of transportation for students who are not otherwise eligible for transportation, in order to calculate additional costs?
• How can the LEA estimate administrative costs involved in the logistics of providing transportation, such as additional staff time in coordinating transportation and informing other students on the bus when new bus stops change pick-up and drop-off times.

Since children may be placed in foster care placements across district, county, or state lines, procedures should address potential transportation issues that may arise as students in foster care move from one district to another or across state lines.

**MONITORING AND COMPLIANCE**

Since the foster care provisions of Title I, Part A of the ESSA require joint decision-making and collaboration between CWAs and educational agencies, efforts to collaborate must be documented. Evidence of compliance with the ESSA should include the following:

• Completed LEA written transportation procedures.
• Evidence that documents the collaboration of LEA and local CWAs, best interest determination, immediate enrollment, collaboration between agencies regarding transportation, etc. Documentation may include:
  o meeting invitations,
  o sign in sheets,
  o agendas,
  o meeting minutes,
  o emails that document collaboration,
  o other relevant evidence that documents collaboration between the LEA and local CWA,
  o best interest determination forms (signed and dated), and
  o immediate enrollment forms indicating date of enrollment (signed and dated).

*LEAs will be monitored for foster care compliance during the regular Title I audit schedule beginning during the 2017–18 school year. Monitoring documents will be available on the SCDE website.*
Dispute Resolution - School of Origin

**Efforts to Reach Agreements**

Both LEAs and local CWAs offer valuable perspectives during a best interest determination. Recognizing this, both the Fostering Connections Act\(^\text{14}\) and Title I require collaboration between the agencies to ensure the educational stability of children in foster care. LEAs and CWAs should make every effort to reach an agreement regarding appropriate school placement of children in foster care. However, if there is a disagreement, *Non-Regulatory Guidance* states that the child welfare agency should be considered the final decision maker in making the best interest determination.\(^\text{15}\)

**Local Dispute Resolution**

LEAs and local CWAs should develop a dispute resolution process at the local level to address disagreements over the best interest. Since the best interest determination process involves input from multiple parties, a clear dispute resolution process may help to clarify a complicated process and enable all involved to address disagreements about school placement in an orderly manner.

A child must remain in his/her school of origin while disputes are being resolved to the extent feasible and appropriate to minimize disruptions and reduce the number of moves between schools (ESEA section 1111(g)(1)(E)(i)).

**Sample School of Origin Dispute Resolution Process**

If the school level representative and the DSS case manager (or designee) designated to make a determination do not agree on the child’s best interest for school placement, the procedures delineated below should be followed for resolving school placement disputes.

1. During the resolution process, the student *remains* in the school in which he/she was enrolled at the time of placement in the new residence.

2. Within five work days of the best interest determination meeting, the local CWA point of contact and the LEA foster care POC work together, review the best interest determination documentation, and resolve the dispute.

3. If the CWA and LEA point of contacts do not agree on the child’s best interest for school placement, they should obtain guidance and consultation from their respective state agencies (SCDE and SCDSS). This request is submitted via email to the foster care POC.

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at each agency within a ten-day time frame and should include best interest determination documentation. The written request includes the completed Best Interest Determination for Foster Care School Placement form which documents:

- the factors that were considered in determining the school placement that is in the child’s best interest;
- the team’s determination for school placement;
- the participants involved;
- whether each participant agreed or disagreed with the team’s determination;
- the reasons for agreement or disagreement;
- any additional information pertinent to the dispute; and
- efforts made to resolve the dispute.

4. The SCDE and the SCDSS will work together to provide guidance and technical assistance to the involved local agencies.

5. All written documentation is placed in the child’s case file and the student’s cumulative record to be available for any required federal reviews. *Documentation must be made available during a Title I monitoring visit.

**Note:** For students with disabilities, the determination regarding the ability of a student to receive FAPE (Free and Appropriate Public Education) is the exclusive decision of the student’s IEP team. Such a determination may only be challenged through the established dispute resolution mechanisms of special education law. The IEP team determination, or the determination reached through the special education dispute resolution process is final, and the child must be enrolled in the school that can provide FAPE.
Dispute Resolution - Transportation

**LEA Written Transportation Procedures**

To ensure that foster care children receive transportation and that both the LEA and CWAs are working to ensure educational stability, written transportation procedures should include the following:

1. An assurance that each 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 was enrolled at the time of placement.
2. An assurance that the CWA has coordinated with the LEA(s) to ensure the child can remain in that school, or if remaining in that school is not in the child’s best interest, an assurance that the child will be enrolled immediately in a new school and that the new school obtains relevant academic and other records within three school days.
3. Describe how the CWA is implementing its requirements to develop a plan for ensuring the educational stability of each child in foster care, including ensuring that each placement of every child takes into consideration the proximity to the school of origin (see the Fostering Connections to Success and Increasing Adoptions Act).
4. A description of the process used by the LEA and local CWA to develop and implement clear written transportation procedures.
5. An assurance that children in foster care needing transportation to the school of origin will promptly receive it.
6. A description of how the requirements of section 1112(c)(5)(B) of the Act will be met in the event of a dispute over which agency or agencies will pay any additional costs incurred in providing transportation.
7. An explanation of which agency or agencies will initially pay the additional costs so that transportation is provided promptly during the pendency of the dispute.
8. An explanation of how transportation is provided in a cost-effective manner.
9. A list of potential transportation options available to the school of origin in situations where there are no additional costs.
10. A description of the process that will be used to calculate additional costs of transportation in the event that additional costs are incurred.

**Transportation Dispute**

When a transportation dispute arises between the agencies over paying the costs of transportation, the LEA and local CWA must make every effort to resolve the dispute collaboratively at the local level. Documented patterns of excessive disputes to the SEA from particular LEAs and/or local CWAs will be reviewed by the SEA and state CWA and appropriate measures will be taken to ensure compliance by both local agencies.

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Additional costs incurred in providing transportation to the school of origin should reflect the difference between what an LEA otherwise would spend to transport a student to his or her assigned school and the cost of transporting a child in foster care to his or her school of origin. U.S. Departments of Education and Health and Human Services (2016). Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care, Question 27.
In addition, prior to initiating a state level dispute, the local level parties must make every effort to contact their respective state agency point of contact for guidance.

If an agreement between the LEA and local CWA cannot be reached after all of these efforts have been made, then follow the state level dispute resolution process below.

**STATE LEVEL FOSTER CARE TRANSPORTATION DISPUTE RESOLUTION PROCESS**

Transportation disputes between LEAs and CWAs regarding paying for additional costs of transportation to the school of origin for children in foster care will be resolved by a three-person panel including the SEA foster care POC (or designee), the state CWA POC (or designee), and the SCDE Deputy General Counsel for Federal Programs (or designee). Either an LEA or a local CWA can bring a transportation payment dispute to the SEA by submitting a dispute resolution request to the SEA foster care POC via an email with the subject “Foster Child Transportation Dispute.” The dispute resolution request must include the following information:

- A complete explanation of the basis of the dispute, with all pertinent facts.
- The name and contact information of the people who have been addressing the dispute thus far on behalf of both the LEA and the local CWA (phone, email and mailing address).
- Details of how the agencies have attempted to resolve the dispute at the local level prior to appealing to the state.
- Include a copy of the LEA’s Written Transportation Procedures.

Within ten (10) days of receipt of the dispute resolution request, the SEA foster care POC will contact the party that did not submit the request (either the LEA or CWA) identifying the subject matter of the dispute and inviting that party to submit any information pertinent to the dispute. The party will have ten (10) days to submit its explanation of the dispute, with all pertinent facts. Documents submitted by either party after the applicable deadlines will not be considered.

The panel shall make a final decision within fifteen (15) days of receiving all information related to the dispute. The SEA foster care POC will forward the written decision and an explanation of that decision to the appropriate parties at both the LEA and local CWA. The decision shall be the final resolution.
Fostering Connections: Joint Guidance for Ensuring School Stability of Children in Foster Care

APPENDIX
Appendix A

Best Interest in School of Origin Decisions: A Checklist for Decision Making

Decisions regarding school selection should be made on a case by case basis, giving attention to the circumstances of each student. The following information and checklist may help Child Welfare Services staff and the Educational Rights Holder in discussing the advantages and disadvantages of each option.

Background and Law:

Studies consistently show that school stability is critical for academic achievement. Therefore, the Every Student Succeeds Act (ESSA) of 2015, which mirror and enhance the Fostering Connections Act of 2008, requires that the local education agency must ensure that a child in foster care should remain in his/her school of origin unless a determination is made that remaining in the school is not in the child’s best interest.

When a child is going to change residences, whether this is due to initial entry into the foster care system or a placement change afterwards, the first key decision is whether or not the child will remain in the same school. The Federal Fostering Connections legislation states that the child’s case plan must contain the following assurances:

- The placement 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.
- The placement agency has coordinated with the person holding the right to make educational decisions for the child and appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement or, if remaining in that school is not in the best interests of the child, assurances by the placement agency and the local educational agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school. WIC §16501.1(f).

48853.5 (e)(6) The educational liaison, in consultation with, and with the agreement of, the foster child and the person holding the right to make educational decisions for the foster child, may recommend, in accordance with the foster child's best interests, that the foster child's right to attend the school of origin be waived and the foster child be enrolled in a public school that pupils living in the attendance area in which the foster child resides are eligible to attend.

Key Considerations:

- How long is the placement expected to last and what is the permanent plan?
- How many schools has the child attended this year? The past few years?
- How strong is the child academically?
- Which school does the child prefer? Why?
- Would the timing of a transfer coincide with a logical juncture such as after testing, end of semester, or end of the school year?
- How would the length of commute impact the child?
- Does the youth have any anxieties about the upcoming move or changes in his/her life?
- Are there any safety issues to consider?
- Is the current school in Program Improvement (PI)?
- If so, how are students that are demographically similar to the student performing academically?
# Best Interest in School of Origin Decisions: A Checklist for Decision Making

Student Name: _______________________________________
Date: ____________________________________________

## Remaining in the Same School (School of Origin) Considerations

<table>
<thead>
<tr>
<th><strong>Continuity of Instruction</strong></th>
<th>Student is best served at the same school due to prior history.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Age and grade placement of the student</strong></td>
<td>Maintaining friends and contacts with peers is critical to the student’s meaningful school experience and participation. The student has been in this environment for an extended period of time.</td>
</tr>
<tr>
<td><strong>Academic Strength</strong></td>
<td>The child’s academic performance is weak, and the child would fall further behind if he/she transferred to another school.</td>
</tr>
<tr>
<td><strong>Social and emotional state</strong></td>
<td>The child is suffering from the effects of mobility, has developed strong ties to the current school, does not want to leave, or involved in school related or extra-curricular activities.</td>
</tr>
<tr>
<td><strong>Distance of the commute and its impact on the student’s education and/or special needs</strong></td>
<td>The advantage of remaining in the school of origin outweighs any potential disadvantages presented by the length of the commute.</td>
</tr>
<tr>
<td><strong>Personal safety of the student</strong></td>
<td>The school of origin has advantages for the safety of the student.</td>
</tr>
<tr>
<td><strong>Student’s need for special instruction</strong></td>
<td>The student’s need for special instruction, such as Section 504 or special education and related services, can be met better at the school of origin.</td>
</tr>
<tr>
<td><strong>Length of anticipated stay in a temporary or permanent location</strong></td>
<td>The student’s current living situation is outside the school of origin attendance area, but his/her living situation or location continues to be uncertain. The student will benefit from the continuity offered by remaining in the school of origin.</td>
</tr>
<tr>
<td><strong>Academic Performance Ranking</strong></td>
<td>The school is in program improvement, but the student is connected (academically or socially) to the school which outweighs transferring to a new school or higher performing school.</td>
</tr>
</tbody>
</table>

## Transferring to a New School Considerations

<table>
<thead>
<tr>
<th><strong>Continuity of Instruction</strong></th>
<th>Student is best served at a different school due to his or her history/future.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Age and grade placement of the student</strong></td>
<td>Maintaining friends and contacts with peers is not critical to the student’s meaningful school experience and participation. The student has attended the school of origin for only a brief time. The student has destructive or dangerous relationships at their school of origin.</td>
</tr>
<tr>
<td><strong>Academic Strength</strong></td>
<td>The child’s academic performance is strong and at grade level and the child would likely recover academically from a school transfer.</td>
</tr>
<tr>
<td><strong>Social and emotional state</strong></td>
<td>The child seems to be coping adequately with mobility, does not feel strong ties to the current school, does not mind transferring to another school, or is not involved in school related or extra-curricular activities.</td>
</tr>
<tr>
<td><strong>Distance of the commute and its impact on the student’s education and/or special needs</strong></td>
<td>Shorter commute may help the student’s concentration, attitude, or readiness for school. The new school can meet all of the necessary educational and special needs of the student.</td>
</tr>
<tr>
<td><strong>Personal safety of the student</strong></td>
<td>The new school has advantages for the safety of the student.</td>
</tr>
<tr>
<td><strong>Student’s need for special instruction</strong></td>
<td>The student’s need for special instruction, such as Section 504 or special education and related services, can be met better at the new school.</td>
</tr>
<tr>
<td><strong>Length of anticipated stay in a temporary or permanent location</strong></td>
<td>The student’s current living situation appears to be stable and unlikely to change suddenly. The student will benefit from developing relationships with school peers who live in his or her community.</td>
</tr>
<tr>
<td><strong>Academic Performance Ranking</strong></td>
<td>The school of origin is in Program Improvement and the new potential school will meet the educational needs of the student. The new school can provide more academic support services and greater opportunities than the school of origin.</td>
</tr>
</tbody>
</table>
Best Interest Determination for Foster Care School Placement Form

Student’s Name: _______________________________________________________

School of Current Attendance: ____________________________________________

Student’s Current Grade: ________________________________________________

Date of Best Interest Determination Meeting: ________________________________

**Determination:**

- The student shall remain in the school in which the child was enrolled at the time of placement.
  
  Name of School: _______________________________________________________

- Based on the best interest determination, a change in school placement is needed. The student will be enrolled in the school of current residence.
  
  Name of School: _______________________________________________________

  **Note:** If a change in educational placement is needed, enrollment should take place immediately at the new school with all educational records provided to the new school.

Was the child or youth informed of the benefits in inviting a significant person to attend the meeting?  ☐ Yes   ☐ No

If a person was identified, who did the child invite? ________________________________

What school does the child prefer? ____________________________________________

Why?_____________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________
## Signature Page

The following individuals participated in determining the school placement that is in the student's best interest:

<table>
<thead>
<tr>
<th>Participants</th>
<th>Printed name, Title, and/or relationship with child</th>
<th>Signature</th>
<th>Agree with determination? (circle)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child or youth in care</td>
<td></td>
<td></td>
<td>Yes      No</td>
</tr>
<tr>
<td>DSS service worker or supervisor</td>
<td></td>
<td></td>
<td>Yes      No</td>
</tr>
<tr>
<td>Foster Parent or Placement Provider</td>
<td></td>
<td></td>
<td>Yes      No</td>
</tr>
<tr>
<td>School representative from child's school at time of placement</td>
<td></td>
<td></td>
<td>Yes      No</td>
</tr>
<tr>
<td>IEP team for special education purposes, if applicable</td>
<td></td>
<td></td>
<td>Yes      No</td>
</tr>
<tr>
<td>Birth parent(s) or prior custodian(s)</td>
<td></td>
<td></td>
<td>Yes      No</td>
</tr>
<tr>
<td>The child’s guardian ad litem</td>
<td></td>
<td></td>
<td>Yes      No</td>
</tr>
<tr>
<td>Other significant person(s) the child or youth wishes to attend (if attending)</td>
<td></td>
<td></td>
<td>Yes      No</td>
</tr>
<tr>
<td>Other __________________________________________</td>
<td></td>
<td></td>
<td>Yes      No</td>
</tr>
<tr>
<td>Other __________________________________________</td>
<td></td>
<td></td>
<td>Yes      No</td>
</tr>
</tbody>
</table>
The student remains in the school at time of placement unless the answers to the following questions suggest a change of placement is in the child’s best interest.

1. What is the child’s permanency goal and plan?

2. What is the expected date for achieving the permanency goal?

3. How many schools has the child attended? How many schools has the child attended this year? How have the school transfers affected the child emotionally, socially, academically, and physically?

4. What are the safety considerations related to school placement?

5. Which school does the student prefer? Why? How was this information obtained?

6. How does the child feel about any upcoming moves?
7. Which school do the birth parents or prior custodians as appropriate, and the child’s current placement provider prefer? Why?

8. What school(s) do the child’s siblings attend?

9. How is the child performing academically?

10. Does the child have a current IEP or a 504 Plan?

11. If the student has a current IEP, is specialized transportation identified as a related service?

12. Does the child participate in other specialized instruction? (e.g., gifted program, career and technical program)

13. What are the child’s academic/career goals? Does one school have programs and activities that address the unique needs or interests of the student that the other school does not have?
14. Describe the child’s ties to his or her current school, including significant relationships and involvement in extracurricular activities?

15. Would changing schools affect the student’s ability to earn full academic credit, participate in sports or other extra-curricular activities, proceed to the next grade, or graduate on time? If so, how?

16. Would the timing of the school transfer coincide with a logical juncture, such as after testing, after an event that is significant to the child or at the end of the school year?

17. How would the length of the commute to school impact the child?

Attach any supporting documentation used in making this determination of best interest. (The following is checklist of sample documents that may be considered. The list is not intended to be exhaustive.)

- Report cards
- Progress reports
- Achievement data (test scores)
- Attendance data
- IEP or 504 Plan
- E-mails or correspondence from individuals consulted
- Disciplinary referrals
- Health reports/records
## Immediate Enrollment of Child in Foster Care Form

### Student Information

<table>
<thead>
<tr>
<th>Date of Joint DSS/School Best Interest Determination for School Placement:</th>
<th>Date Student Presented for Enrollment:</th>
<th>Date Placed with Agency:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name &amp; Phone # for School of Origin LEA POC:</strong></td>
<td><strong>Receiving School/District:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Student Name:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Age:</strong></td>
<td><strong>DOB:</strong></td>
<td><strong>Sex:</strong> □ Male □ Female</td>
</tr>
<tr>
<td><strong>Foster Parent/Placement Name:</strong></td>
<td><strong>Phone:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Foster Parent/Placement Address:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>DSS/Child-Placing Agency Name:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Agency Contact Name/Case Worker:</strong></td>
<td><strong>Phone:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Last School Attended/School District:</strong></td>
<td><strong>Current Grade:</strong></td>
<td></td>
</tr>
</tbody>
</table>

### Information on status of parental rights:

- Does student have IEP? □ Yes □ No □ Unknown
- Does student have 504 Plan? □ Yes □ No □ Unknown

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The local department of social services (DSS) shall coordinate with the school district representative to ensure that the child in foster care is immediately and appropriately enrolled with all educational records provided to the new school ([Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351); Social Security Act, Title IV, § 475 (1) (G) [42 USC 675]). The agency placing a child in any situation that requires changing school districts, must work with the schools to assure that all required school records, including confidential records, are transferred from the sending to the receiving school within three working days (Proviso 1.8).

This document provides all information required for the DSS to notify the school principal and school district superintendent and for the school to immediately enroll the child in compliance with ESSA (P.L. 114-95, Sec.1111(c)). “Immediate” means no later than the beginning of the next school day after the presentment for enrollment. “Presentment” means the person enrolling the child has appeared at the school and presented best interest determination documentation and certifications (see next page). “Enrollment” means the child is attending classes and participating fully in school activities.
**Enrollment Certifications**

I am a representative of the agency to whom the court has committed or the parent has entrusted the child’s care through a voluntary entrustment or noncustodial agreement of the above-named child. This child meets the definition of a child placed in foster care in South Carolina; therefore, I am certifying the child is eligible for immediate enrollment.

To the best of my knowledge, ______________________________ has/has not (circle one) been expelled from school attendance at a private school or public school district in South Carolina, or in another state, for an offense in violation of school board policies relating to weapons, alcohol or drugs, or for the willful infliction of injury to another person.

To the best of my knowledge, ______________________________ is in good health and is free from communicable or contagious disease. If documentation of a physical exam, birth certificate, social security number, and/or immunization record is unavailable at time of enrollment, they must be provided to the school within 30 days of enrollment.

______________________________
DSS or Licensed Child Placing Agency Signature

Date

---

**Release of Information**

I, ________________________________, as legal custodian/guardian of ________________________________, hereby authorize schools, their agents and employees in possession of this student’s educational records to release such information as necessary for the purposes of his/her educational enrollment at ________________________________ (school of enrollment).

______________________________
Legal Custodian/Guardian Signature

Date