

# Every Child Succeeds Act (ESSA): Ensuring Educational Stability for Children in Foster Care

## Frequently Asked Questions A Guide for North Carolina LEA Foster Care Points of Contact

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# **Every Student Succeeds Act**

## **Ensuring Educational Stability for Children and Youth in Foster Care**

### **Background**

Children in foster care are a vulnerable and highly mobile student population. More than half of the children in foster care in North Carolina are in elementary or secondary schools. Of those school-aged children in foster care in NC between April 2015 and March 2016, 25% experienced two school placement changes, 14% experienced three school placement changes, and 23% experienced four or more school placement changes within the duration of their placement episode. Children in foster care experience much higher levels of residential and school instability than their peers, experience significantly more unscheduled school placement changes, and are much more likely than their peers to struggle academically and to fall behind in school. Those in foster care at age 17 are also significantly less likely to graduate from high school or obtain postsecondary education. One large study found that children in foster care score lower on assessments and show less progress in scores over time compared to peers of similar backgrounds who are not in foster care. (NC DSS and NC DPI, 2017)

### **Purpose of the Legislation**

Requirements under Title I, Part A of the Elementary and Secondary Education Act (ESEA), as amended by Every Student Succeeds Act (ESSA), established new protections for children in foster care. These provisions compliment the requirements of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act) and further promote the purpose of Title I – to increase educational stability, remove enrollment barriers, ensure high-quality educational opportunities, close achievement gaps, and improve educational outcomes for children served by the foster care system.

The legislation seeks to decrease the number of school placement changes that take place and to ensure immediate enrollment of a foster child when a school placement change is necessary. Since the 2008 passage of the Fostering Connections Act, there has been an increased need for collaboration between child welfare agencies and education agencies.

Effective December 10, 2016, the foster care provisions of Title I under the ESEA, as amended, require state educational agencies (SEAs) and local educational agencies (LEAs) to work with child welfare agencies to ensure the educational stability of children in foster care. In its state plan for ESSA, the North Carolina Department of Public Instruction (NC DPI) includes a description of collaboration efforts with the Division of Social Services (DSS) at the North Carolina Department of Human and Health Services (DHHS).

The foster care provisions of Title I emphasize the importance of collaboration and joint decision-making between child welfare agencies and educational agencies. This frequently asked questions document details the respective roles of the state and local child welfare agencies and education agencies as required with the 2015 passage of ESSA and lays the

groundwork for joint responsibility and continuous collaboration between these agencies in North Carolina.

The legislation places emphasis on the need to provide educational stability for children in foster care, as well as on collaboration between SEAs, LEAs, and child welfare agencies to ensure that students in foster care have the same high-quality educational opportunities 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 foster care placements) in their schools of origin, unless it is determined to be in their best interest to change schools. These provisions also ensure that if it is not in their best interest to remain in their schools of origin, children in foster care are enrolled in their new schools without delay.

## **State Coordinator for Foster Care Contact Information**

Sara Bigley is the State Program Coordinator for Foster Care Education in the Federal Program Monitoring and Support Services Division in the NC DPI. The State Program Coordinator for Foster Care position is housed at the SERVE Center at the University of North Carolina-Greensboro.

Email [sbigley@serve.org](mailto:sbigley@serve.org) or call 336-334-4638. Visit [North Carolina Foster Care Education Program](#) for resources associated with *Every Student Succeeds Act: Ensuring Educational Stability for Children and Youth in Foster Care*.

## **Key Terms Defined**

1. *Foster care* is defined as 24-hour substitute care for children placed away from their parents or guardians for whom the title IV-E [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 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. (ACYF, 2012, 45 C.F.R. § 1355.20(a))
2. *School of origin* means the school in which a child is enrolled at the time of placement in foster care. An SEA and its LEAs must ensure that a child in foster care enrolls or remains in his or her school of origin unless a determination is made that it is not in the child's best interest. (ESEA, as amended, 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. (US ED and US DHHS, 2016, p. 11)

3. *Immediate enrollment* means that a child in foster care should be enrolled in school as soon as possible in order to prevent educational discontinuity. The federal guidance further states that enrollment cannot be denied or delayed because documents normally required have not been submitted (US ED and US DHHS, 2016, p. 20). Also, enrollment means more than technically registered. ESEA defines *enrollment* as, “attending classes and participating fully in school activities” (ESEA, as amended, 42 U.S.C. § 11434(a)(1)).

## **Protections and Requirements for Students in Foster Care in ESSA**

1. **Remain in the Same School When in the Child’s Best Interest**

Under ESSA, SEAs must include in their state plans the steps that the agencies will take to ensure—in collaboration with the state child welfare agencies—school stability for youth in care, including assurances that children enroll or remain in their school of origin unless a determination is made that it is not in their best interest. That determination must be based on all factors relating to the child’s best interest (ESEA, as amended, 20 U.S.C. § 6311(g)(1)(E)).

2. **Immediate Enrollment in School and Transfer of School Records**

Children in foster care frequently face delays in school enrollment or are placed in the wrong classes or schools, often due to missing, incomplete, or delayed school records and documentation. Under ESSA, children in foster care can enroll immediately in a new school even if the child cannot produce normally required enrollment documents and school records. Additionally, enrolling schools must immediately contact the school last attended by the child to obtain relevant academic and other education. (ESEA, as amended, 20 U.S.C. § 6311(g)(1)(E)(iii)).

3. **School Transportation when Necessary**

For some students in foster care, transportation is needed to allow them to remain in the same school (school of origin). LEAs and child welfare agencies must collaborate, and the LEAs must include in their local plans, assurances that they have developed and implemented clear written procedures governing how transportation to ensure school stability will be provided, arranged, and funded for the duration of the children’s time in foster care in a cost effective manner and in accordance with the provisions of child welfare law that permit the use of certain Title IV-E funds for school stability transportation (ESEA, as amended, 20 U.S.C. § 6312(c)(5)(B)).

4. **Removal of “Awaiting Foster Care Placement” from McKinney-Vento Homeless Assistance Act**

Because of the new ESSA protections for students in foster care, and in recognition of the need for additional resources for students who are homeless, this law removes “awaiting foster care placement” from the definition of “homeless” for purposes of the McKinney-Vento Act by December 10, 2016.

## **5. Required Data Collection and Reporting**

For the first time, SEAs are required to report annually on student achievement and graduation rates for students in foster care (ESEA, as amended, 20 U.S.C. § 6311(h)(1)(C)(ii)). To implement this requirement, education and child welfare agencies will need to work together to ensure effective, appropriate, and confidential data and information sharing between systems. The federal guidance states, “SEAs and LEAs must comply with all statutory requirements to protect student privacy, including FERPA and any other privacy requirements under Federal, State, or local laws” (US ED and US DHHS, 2016, p. 23).

## **6. Point of Contact Designated within the SEA**

Under the new law, every SEA must include in its state plan the steps it will take to ensure collaboration with the state child welfare agency, including designating an employee to serve as a point of contact (POC) to oversee child welfare agencies and to oversee implementation of the foster care provisions of ESSA (ESEA, as amended, 20 U.S.C. § 6312(g)(1)(E)).

## **7. Point of Contact Designated within the LEA**

ESSA requires LEAs to collaborate with the state or local child welfare agency to designate a point of contact if the corresponding child welfare agency notifies the LEA in writing, that the agency has designated an employee to serve as a point of contact for the LEA (ESEA, as amended, 20 U.S.C. § 6312(c)(5)(A)). The North Carolina Division of Social Services (NC DSS) expects county child welfare agencies to designate a point of contact and to notify the appropriate LEAs in writing that they have done so (NC DSS and NC DPI, 2017, p. 12). In essence, every North Carolina LEA must have a child welfare point of contact (POC), also called a Foster Care Liaison or Foster Care POC.

## **LEA Foster Care Point of Contact Responsibilities**

Due to changes in the McKinney-Vento Homeless Assistance Act, as reauthorized by ESSA, a school district should carefully consider the roles of each position before assigning the Foster Care Liaison position to staff. *It is critical that staff designated as the Foster Care POC have the time and capacity to fulfill their responsibilities.*

The general role of the district Foster Care POC is to facilitate district compliance with state and federal laws as they relate to children and youth in foster care, and to collaborate with the NC DSS in an effort to address educational barriers that prevent children and youth in foster care from being identified, being enrolled, attending, and succeeding in school.

As specified in the NC DPI and NC DSS joint guidance, the Foster Care POC should carry out the following responsibilities:

1. Notify DPI [the State Program Coordinator for Foster Care], including the name, position, and contact information of the designated POC. Contact information will be posted online at [North Carolina Foster Care Education Program](#).

2. Inform school and LEA leaders of the POC appointment, thus increasing awareness and including information about the responsibilities of the POC, the importance of school stability, and the statutory requirements to support students in foster care.
3. Participate in training and support sessions provided by DPI and the North Carolina Department of Health and Human Services (DHHS).
4. Collaborate with local child welfare agencies, specifically with the CWA [child welfare agency] POC, to develop local processes and procedures that will:
  - Identify the documents or records to be shared between agencies.
  - Create specific processes that will be implemented to ensure ongoing communication (i.e., regular meetings)
  - Determine the number of children in foster care in the LEA and track school stability of these children.
  - Establish the POC role in developing and implementing the local transportation procedures.
  - Assist child welfare agencies in making BIDs for children in care.
  - Maintain current and accurate information about children in foster care.
  - Identify key personnel in the LEA and in individual schools who will assist in facilitating support for students in foster care.
  - Ensure the POC or a school representative is invited to attend CFT meetings hosted by the local CWA.
  - Ensure the POC is allowed to have input when there is a hearing concerning the student's case.
5. Review policies and practices to identify and remove barriers to immediate enrollment and records transfers (thus streamlining the enrollment protocol to be followed by all school registrars and front office staff).
6. Develop clear written transportation procedures in collaboration with the child welfare agency that has custody of children attending school in the LEA, including the extent to which the LEA agrees to pay or share the costs of transportation with the child welfare agency.
7. Ensure that students in foster care receive school nutrition services without further application.
8. Collect school district information on children in foster care, including academic achievement and graduation rates, and implement student data tracking and monitoring mechanisms that assist in identifying student needs, planning interventions, and monitoring student progress toward graduation. Minimally, data should be reviewed on an annual basis to identify needs and gaps in services for children in foster care. (NC DSS and NC DPI, 2017, p. 13)

## **Frequently Asked Questions**

### **To which children do the new ESSA protections to ensure school stability for children foster care apply?**

The requirements for ensuring educational stability for children in foster care apply to all foster children enrolled in public schools (US ED and US DHHS, 2016, p. 6). Remember the definition of

foster care includes any out-of-home care (including a relative or suitable person), so long as the child is under the placement and care responsibility of a child welfare agency and placed in out-of-home care by DSS. In addition to applying to all children in foster care enrolled in schools in the SEA, children attending charter schools in states that consider charter schools to be LEAs are entitled to these protections.

### **Do the ESSA educational provisions apply to preschool-age children in foster care?**

Yes, if a district offers public preschool, the district must meet the educational stability requirements for children in foster care who were enrolled in preschool at their time of placement in a foster home (US ED and US DHHS, 2016, p. 8). Public preschool programs include early childhood education programs for children who have not started kindergarten. Public preschool is funded by tax dollars or other public funds and includes both preschool programs operated by the district and funded through the district. Children may attend preschool at a specific location or participate in a home-based program.

### **What is the duration of protections?**

Under ESSA, children in foster care are entitled to school stability and prompt school enrollment protections for the duration of the child's time in foster care. The federal guidance recommends that SEAs and LEAs adopt policies that allow children to remain in the same school through at least the end of the academic year, even if they have already exited foster care (US ED and US DHHS, 2016, p. 11).

### **Are children in foster care eligible for free lunch?**

Yes. Children in foster care are categorically eligible for free lunch and may be certified without an application (USDA, 2013). Whether placed by the state child welfare agency or a court, in order for a child to be considered categorically eligible for free meals, the state must retain legal custody of the child. If the state relinquishes custody of a child, the child is no longer considered to be in foster care and categorical eligibility no longer applies.

The Healthy, Hunger-Free Kids Act of 2010 (HHFKA) authorized categorical eligibility for foster children in Section 9(b)(12)(A) of the Richard B. Russell National School Lunch Act (NSLA) and defined a *foster child* as "a foster child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act (42 U.S.C. § 621 et seq.); or a foster child who a court has placed with a caretaker household."

This does not apply to informal arrangements such as caretaker arrangements or permanent guardianship placements that may exist outside of or as a result of state- or court-based systems.

### **How will students in foster care be identified in the LEA?**

The local child welfare agency will notify the school district's Foster Care POC. Whenever a child initially enters the custody of the child welfare agency or whenever a child currently in the



custody of the child welfare agency requires a foster care placement change, the North Carolina joint guidance states that the following must occur:

1. The county CWA [child welfare agency], as required by Fostering Connections, shall ensure that every child's case plan includes assurances of the appropriateness of the educational setting and proximity of school placement.
2. A Best Interest Determination (BID) meeting regarding the child(ren)'s school placement shall occur and be documented on the BID form. Whenever possible this BID meeting should be combined with the CWA Child and Family Team (CFT) meeting that is held prior to a county CWA assuming custody or making a foster care placement change.
3. The CWA social worker shall notify their CWA POC and involve that CWA POC as needed.
4. The CWA shall provide the completed Notification of Placement form to the school within one day of foster care placement (of foster care placement change). Delivery of the Notification of Placement form may be made either by the CWA or the foster care placement provider. The Notification of Placement form will serve to:
  - a. Alert the LEA that the child has entered foster care or had a foster care placement change;
  - b. Request the child's comprehensive education records pursuant to the Uninterrupted Scholars Act; and
  - c. Initiate scheduling a BID meeting if the BID meeting did not occur prior to the foster care placement or placement change.
5. Upon receipt of the Notification of Placement form, the school must notify the LEA POC. The LEA POC is responsible for contacting the school transportation personnel and other school resources as needed (e.g., school social worker, counselor, Individual Education Plan(IEP) team members, etc.).
6. Until school transportation can be arranged by the school, the CWA is responsible for arranging transportation for the child to and from the foster care placement and his or her school of origin unless the child's foster care placement is on an existing transportation route for the school of origin. In this case, the LEA is responsible for the school of origin transportation. (NC DSS and NC DPI, 2017, p. 4)

### **What process should be used when making a best interest determination?**

School districts and child welfare agencies must *collaborate* to ensure that each child in foster care remains in his or her school of origin if it is determined to be in the child's best interest for the duration of the child's time in foster care. In making the determination as to whether it is in the child's best interest to remain in his or her school of origin, the child welfare agency and LEA must consider the appropriateness of the current educational setting and proximity of foster care placement (ESEA, as amended, 20 U.S.C. § 6311(g)(1)(E)(i)). In addition, the child welfare agency and LEA should consider all factors relating to a child's best interest.

The child's social worker must complete the [Best Interest Determination Form](#) and keep it on file for every placement of a child.

## **What factors should be considered in determining whether remaining in a child's school of origin is in his or her best interest?**

School districts and child welfare agencies should use student centered factors to determine whether or not it is in the best interest of a student in foster care to remain in their school of origin. Though the specific factors may vary depending on context, in order to make a well-informed determination, a variety of factors should be considered.

The federal guidance stresses the importance of gathering meaningful input from relevant parties, including the child, foster parents, biological parents (when appropriate), education decision makers, other relatives with relevant information, and school staff (US ED and US DHHS, 2016, p. 13). The federal guidance suggests the following factors to consider when making a best interest determination:

- Preferences of the child
- Preferences of the child's parent(s) or education 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
- 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
- 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 Individuals with Disabilities Education Act (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 English Learner (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 Equal Educational Opportunities Act (EEOA) (US ED and US DHHS, 2016, p. 11)

Transportation costs should not be considered when determining a child's best interest (US ED and US DHHS, 2016, p. 12).

## **What special considerations and legal requirements should be taken into account when implementing the educational stability provisions for foster children with disabilities under the IDEA and students with disabilities under Section 504?**

A significant percentage of children in foster care are receiving special education services. An IEP developed and implemented in accordance with IDEA is one means of meeting the Section 504 Free Appropriate Public Education (FAPE) standard. School districts often develop written

plans, commonly referred to as Section 504 Plans, for students with disabilities who receive services under Section 504. Even if a student does not require special education services and does not have an IEP, he or she may nevertheless be a student with a disability under Section 504 and be entitled to receive related aids and services under a Section 504 Plan. As is true under IDEA, Section 504 also requires that, to the maximum extent appropriate, students with disabilities be educated in the regular educational environment, unless they cannot be educated satisfactorily in that environment with the use of supplementary aids and services. (US ED and US DHHS, 2016, p. 9)

**What special considerations and legal requirements should be taken into account when implementing the educational stability provisions for foster children who are English learners?**

Some children in foster care also are English Learners (EL) – students identified as having limited English proficiency in speaking, listening, reading or writing English through procedures established by school districts. Title VI and the Equal Educational Opportunities Act of 1974 (EEOA) 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

- 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. (US ED and US DHHS, 2016, p. 10)

Additional information about states' and school districts' legal obligations under Title VI and the EEOA can be found in the U.S. Department of Justice, Office of Civil Rights Dear Colleague Letter: English Learner Students and Limited English Proficient Parents.

**Are school districts required to provide school of origin transportation to children and youth in foster care?**

Yes, if it is determined to be in their best interest. An LEA must collaborate with the state or local child welfare agency to develop and implement clear, written procedures governing how transportation to maintain children in foster care in their schools of origin, when in their best interest, will be provided, arranged, and funded for the duration of the child's time in foster care. These procedures must ensure that

1. Children in foster care needing transportation to their schools of origin will promptly receive that 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
2. If there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the LEA will provide such transportation if
  - a. The local child welfare agency agrees to reimburse the LEA for the cost of such transportation;
  - b. The LEA agrees to pay for the cost; or
  - c. The LEA and local child welfare agency agree to share the cost. (ESEA, as amended, 20 U.S.C. § 6312(c)(5)(B)(ii)).

Since children may be placed in foster care placements across district, county, or state lines, coordination among multiple LEAs and child welfare agencies may be necessary. Thus, in developing the transportation procedures, LEAs should also work with the state or local child welfare agency to establish inter-district and inter-state procedures that address potential transportation issues that may arise as students in foster care move from one district to another or across state lines. (US ED and US DHHS, 2016, p. 16)

**What is the role of the child welfare agency in providing transportation for a child in foster care to his or her school of origin?**

A child welfare agency administering plans under Title IV-E and IV-B of the Social Security Act must ensure that the educational stability plan of each child in foster care includes an assurance that the child welfare agency has coordinated with the appropriate LEA(s) to ensure the child can remain in the school of origin, 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. Given the shared responsibility of child welfare agencies and LEAs to ensure educational stability, we encourage child welfare agencies to continue to work with the appropriate LEA(s) in exploring the full range of options for providing and funding transportation to maintain a child in his or her school of origin, consistent with the child's educational stability plan. (US ED and US DHHS, 2016, p. 16)

**What is the duration of time that the LEA must provide a child with transportation services for a child in foster care?**

Children in foster care are entitled to transportation to their school of origin, if in their best interest, for the duration of time in foster care. The transportation procedures developed by the LEA and child welfare agency must ensure that a child in foster care needing transportation to the school of origin receives such transportation for the duration of the time the child is in foster care. (US ED and US DHHS, 2016, p. 17)

**What educational services should continue once a child exits foster care?**

When a child exits foster care, the LEA should continue to prioritize the child's educational stability, consider each child's best interest on a case-by-case basis, and when possible make every effort to continue to ensure transportation is provided through the end of the school year, if needed, when remaining in the school of origin would be in the child's best interest. (US ED and US DHHS, 2016, p. 17)

**What constitutes "additional costs" incurred in providing transportation to maintain children in foster care in their schools of origin?**

As part of developing and implementing its transportation procedures, an LEA must address any additional costs incurred in providing transportation to maintain children in foster care in their schools of origin. (ESEA, as amended, 20 U.S.C. § 6312(c)(5)(B)(ii)).

Additional costs should reflect the difference between what an LEA 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. (US ED and US DHHS, 2016, p. 18)

**What steps should an LEA and local child welfare agency take to ensure that transportation is provided if they face difficulty reaching agreement on how to pay for additional transportation costs?**

Transportation is a central component of educational stability, and it may be needed to fulfill the requirements that both LEAs and child welfare agencies ensure educational stability for children in foster care. Considering this mutual mandate, both agencies must collaborate regarding transportation if it is necessary so that a child in foster care may remain in his or her school of origin, consistent with Section 475(5)(G)(ii)(I) of the Social Security Act. (US ED and US DHHS, 2016, p. 18)

We recognize that there may be occasions when an LEA and local child welfare agency face difficulties reaching agreement on how to fund any additional costs incurred to provide transportation to the school of origin. An LEA must collaborate with the state or local child welfare agency to develop transportation procedures that ensure that children in foster care promptly receive transportation, as needed, to their school of origin (ESEA, as amended, 20 U.S.C. § 6312(c)(5)(B)(i)). Therefore, the transportation procedures should address how this

requirement will be met, even if the relevant agencies cannot reach agreement on how to fund any additional transportation costs. (US ED and US DHHS, 2016, p. 18)

### **What are examples of no-cost or low-cost options for transportation to school of origin?**

The LEA and child welfare agency should consider whether transportation can be provided for minimal or no additional costs. Some examples include, but are not limited to, the following:

- The child may be dropped off at a school bus stop near the existing transportation system for the school of origin;
- Public transportation options exist, if the child is of an appropriate age and has, or is able to acquire the skills to utilize such options;
- The foster parents or other family member(s) are willing and able to transport the child to school;
- There are pre-existing bus routes or stops close to the new foster care placement that cross district boundaries, such as bus routes for magnet schools and transportation for homeless students as required by the McKinney-Vento Act; and
- The child is already eligible for transportation covered by other programs. For example, IDEA funds may be used to pay for transportation services if the child's IEP team determines transportation is a related service that is required in order for a child with disabilities in foster care to receive Free Appropriate Public Education (FAPE). (US ED and US DHHS, 2016, p. 17)

### **Is an LEA required to transport children in foster care to and from their school of origin while transportation cost disputes are being resolved?**

An LEA must ensure that children in foster care needing transportation to the school of origin promptly receive such transportation in a cost-effective manner (ESEA, as amended, 20 U.S.C. § 6312(c)(5)(B)(i)). Therefore, the LEA must provide or arrange for adequate and appropriate transportation to and from the school of origin while any disputes are being resolved. (US ED and US DHHS, 2016, p. 19)

### **If an LEA does not provide transportation to children who are not in foster care, is it required to transport children in foster care to their schools of origin?**

Yes. An LEA must ensure that transportation is provided for children in foster care consistent with the procedures developed by the LEA in collaboration with the state or local child welfare agency under Section 1112(c)(5)(B) of ESEA. These requirements apply whether or not the LEA already provides transportation for children who are not in foster care. (US ED and US DHHS, 2016, p. 18)

### **Can a district use Title I, Part A funds to pay for the transportation of children and youth in foster care to their school of origin?**

Yes. Title I, Part A funds can be used for transportation (US ED and US DHHS, 2016, p. 18). Each LEA that receives Title I, Part A funds must develop and implement, in collaboration with the

state or local child welfare agency, procedures to provide, arrange, and fund transportation to maintain children in foster care in their schools of origin (ESEA, as amended, 20 U.S.C. § 6312(c)(5)(B)).

There is a line item designated in the CCIP system foster care. This is specifically where designated Title I, Part A funds will be identified for foster care.

Please note however, that funds reserved for comparable services for homeless children and youth under Section 1113(c)(3)(A)(i) of ESEA may not be used to provide transportation needed to maintain children in foster care in their schools of origin. (US ED and US DHHS, 2016, p. 18)

### **Can a student in foster care be suspended?**

Because children in foster care experience family disruption and mobility, in addition to neglect and abuse in many cases, these children may exhibit adverse behaviors in school. The new provisions for foster care as outlined by ESSA do not provide immunity from normal school disciplinary guidelines. However, the federal guidance stresses that SEAs, LEAs, and child welfare agencies must ensure that students in foster care have the opportunity to achieve at the same high levels as their peers (US ED and US DHHS, 2016, p. 6).

To maximize these opportunities, there may be instances when the LEA should show flexibility and leniency. A student should not be penalized for issues directly related to his or her being in foster care. At times, tardiness, absences, and acting out, for instance, may be beyond a child's control.

A brief from the Legal Center for Foster Care & Education states, "Disciplinary actions taken against children in care can often have far more significant consequences than intended for other students – impacting permanency goals. In contrast, non-exclusionary and supportive approaches to dealing with disruptive behavior can benefit all students" (ABA, 2014, p. 1).

The brief summarizes federal guidance from the U.S. Department of Education (2014) that urges schools to make changes to their discipline policies to eliminate disparities and other problems. The following recommendations can be applied to all children, and to children in foster care, in particular. The guidance urges schools to

- Use exclusionary discipline **only as a last resort**. If students are removed from class, they should receive "meaningful instruction, and their return to the classroom should be prioritized;"
- Reduce the number of suspensions, expulsions, and arrests by providing **targeted supports** and interventions with a proven track record of success (like restorative practices and Positive Behavioral Interventions and Supports);
- Provide students with enhanced/increased access to counselors, school psychologists, and school nurses;
- Establish **clear parameters for school and local police**; they should not be involved in "routine" school disciplinary matters; and

- Collect and maintain **disaggregated data** on school discipline and report it publicly. (ABA, 2014, p. 3)

### **Who can enroll a child in foster care in school and are there specific forms used in North Carolina?**

Either the DSS social worker or designee, such as the foster care parent can enroll a child. Check your county Board of Education (BOE) policy, as well as the policy of your local DSS agency regarding enrollment requirements.

Forms to be used for enrollment and notification of placement changes are

[Foster Care Immediate Enrollment Form \(DSS Form 5135\)](#)

[Foster Care Notification Change of Placement Form \(DSS form 5133\)](#)

Or a nonsecure custody agreement (indicating that the court has given custody to the county agency)

[Foster Care Process Flow Chart](#)

### **Can children in foster care be enrolled in any school they choose?**

Based on the BID meeting, children in foster care are to either remain in the school of origin or be immediately enrolled in the school of residence. If your school district has a school of choice policy, then that procedure or BOE policy for admission would need to be followed for enrollment. If a school transfer is requested for a student in foster care, then that district or BOE policy should be followed.

### **Is there assistance for children who have been in foster care to attend college?**

Yes, any child who has been in foster care from age 13 and older is automatically considered an independent student for the purposes of completing the [Free Application for Federal Student Aid](#) (FAFSA). The FAFSA specifically asks if a youth has been in foster care at any time since he or she turned age 13, even if the youth is no longer in foster care at the time of completing the application. Children in foster care should complete the FAFSA form and check that they have been in foster care.

[NC Reach](#) - NC Reach is a state-funded scholarship offered to qualified applicants for up to 4 years of undergraduate study at NC public colleges and universities. Available funding is awarded after other public funds and scholarships have been applied. NC Reach provides comprehensive student support, including mentors, care packages, and internships.

[Foster Care to Success \(FC2s\)](#) partners with organizations, foundations, and individuals to deliver scholarships to foster youth across the country. Scholarships from \$2,500-\$5,000 are based on a combination of need and merit.





*foster care*. Retrieved from

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