

Students

SUBJECT: EDUCATION OF STUDENTS IN FOSTER CARE

The BOCES recognizes the importance of educational stability for students in foster care and will collaborate, as appropriate, with the State Education Department (SED) and the local Department of Social Services (LDSS) to ensure that students in foster care have the opportunity to achieve at the same high-levels as their peers. For purposes of this policy, LDSS also refers to the local social services district or the local child welfare agency.

Definitions

- a) "Child or youth in foster care" ("student in foster care") means a child who is in the care and custody or custody and guardianship of a local Commissioner of Social Services or the Commissioner of the Office of Children and Family Services.
- b) "Feeder school" means:
 - 1. A preschool whose students are entitled to attend a specified elementary school or group of elementary schools upon completion of that preschool;
 - 2. A school whose students are entitled to attend a specified elementary, middle, intermediate, or high school or group of specified elementary, middle, intermediate, or high schools upon completion of the terminal grade of such school; or
 - 3. A school that sends its students to a receiving school in a neighboring school district pursuant to applicable laws and regulations.
- c) "Foster care" means 24-hour substitute care for children placed away from their parents or guardians and for whom the state or tribal 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 pre-adoptive homes. A child is in foster care 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.
- d) "Preschool" means a publicly funded prekindergarten program administered by SED or a local educational agency or a Head Start program administered by a local educational agency and/or services under the Individuals with Disabilities Education Act (IDEA) administered by a local educational agency.
- e) "Receiving school" means:
 - 1. A school that enrolls students from a specified or group of preschools, elementary schools, middle schools, intermediate schools, or high schools; or

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2. A school that enrolls students from a feeder school in a neighboring local educational agency pursuant to applicable laws and regulations.
- f) "School district of origin" means the school district within New York State in which the child or youth in foster care was attending a public school or preschool on a tuition-free basis or was entitled to attend at the time of placement into foster care when the social services district or the Office of Children and Family Services assumed care and custody or custody and guardianship of such child or youth, which is different from the school district of residence.
- g) "School district of residence" means the public school district within New York State in which the foster care placement is located, which is different from the school district of origin.
- h) "School of origin" means a public school that a child or youth attended at the time of placement into foster care, or the school in which the child or youth was last enrolled, including a preschool or a charter school. For a child or youth in foster care who completes the final grade level served by the school of origin, the term school of origin will include the designated receiving school at the next grade level for all feeder schools. Where the child is eligible to attend school in the school district of origin because the child was placed in foster care after such child is eligible to apply, register, or enroll in the public preschool or kindergarten or the child is living with a school-age sibling who attends school in the school district of origin, the school of origin will include any public school or preschool in which such child would have been entitled or eligible to attend based on such child's last residence before the circumstances arose which caused such child to be placed in foster care.

BOCES Foster Care Liaison

The BOCES will designate an appropriate staff person to act as the BOCES' point of contact for students in foster care (i.e., the "Foster Care Liaison"). The Foster Care Liaison will not be the same staff person as the McKinney-Vento Liaison unless the McKinney-Vento Liaison has sufficient ability to carry out the responsibilities of both roles.

The Foster Care Liaison will work collaboratively with representatives from the LDSS.

The BOCES will ensure that the name and contact information for the Foster Care Liaison are:

- a) Submitted to SED;
- b) Provided, in writing, to the point of contact for any LDSS known by the BOCES to have students in its custody; and
- c) Posted on the BOCES website.

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SUBJECT: EDUCATION OF STUDENTS IN FOSTER CARE (Cont'd.)**Designation of School District and School**

The LDSS, in consultation with the appropriate local educational agency or agencies, will determine whether placement in the school district of origin or the school district of residence is in the best interest of a student in foster care. Provided that the BOCES is an appropriate local educational agency, the BOCES will work with the LDSS to make the best interest determination as quickly as possible in order to prevent educational discontinuity for the student. If the student has an Individualized Education Program (IEP), a Section 504 plan, or is an English language learner, relevant school staff may be consulted during the best interest determination process.

To the extent feasible and appropriate, the student should remain in his or her school of origin while the best interest determination is being made.

Subject to a best interest determination, a student in foster care is entitled to attend the school of origin or any school that children and youth who live in the attendance area in which the foster care placement is located are eligible to attend, including a preschool, for the duration of the student's placement in foster care and until the end of the school year in which he or she is no longer in foster care, and for one additional year if that year constitutes the student's terminal year in that building.

Where the school district of origin or school of origin that a student was attending on a tuition-free basis, or was entitled to attend when the student entered foster care is located, in New York State and the student's foster care placement is located in a contiguous state, the student is entitled to attend his or her school of origin or any school that children and youth who live in the attendance area in which the foster care placement is located are eligible to attend, including a preschool, subject to a best interest determination, for the duration of the student's placement in foster care and until the end of the school year in which he or she is no longer in foster care, and for one additional year if that year constitutes the student's terminal year in such building.

Responsibilities When Designated as the School District of Attendance

If the BOCES is designated as the school district of attendance for a student in foster care, the BOCES will immediately:

- a) Enroll the student in foster care, even if the student is unable to produce records which are normally required for enrollment, such as previous academic records, records of immunization and/or other required health records, proof of residency or other documentation and/or even if the student has missed application or enrollment deadlines during any period of placement in foster care, if applicable;
- b) Treat the student in foster care as a resident for all purposes; and

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- c) Make a written request to the school district where the student's records are located in order to obtain a copy of the student's records and coordinate the transmittal of these records in accordance with applicable laws and regulations.

Request for Records

Within five days of receipt of a request for school records from a new school, the BOCES will forward, in a manner consistent with federal and state law, a complete copy of the records of the student in foster care, including, but not limited to: proof of age; academic records; evaluations; immunization records; and guardianship papers (if applicable).

Tuition Reimbursement

Except as otherwise provided in law or regulation, the cost of instruction of a student in foster care will be borne by the school district of origin. Where a district other than the school district of origin is designated as the school district of attendance, the cost of instruction will be borne by the school district of origin and the tuition paid to the designated school district of attendance will be computed in accordance with applicable laws and regulations.

Transportation Responsibilities

Any student in foster care who requires transportation in order to attend his or her school of origin, is entitled to receive that transportation.

As appropriate, the BOCES will coordinate and collaborate with the school district and LDSS to make an appropriate transportation plan .

Dispute Resolution Process

To the extent feasible and appropriate, the BOCES will ensure that a student in foster care remains in his or her school of origin while any dispute is being resolved in order to minimize disruptions and reduce the number of moves between schools.

Coordination with Other Agencies

The BOCES will coordinate the provision of services described in this policy, as appropriate, with agencies or programs providing services to students in foster care.

The BOCES will coordinate with other school districts on inter-district issues, such as transportation or transfer of school records.

The BOCES will coordinate implementation of the above provision of services with the requirements of IDEA for students with disabilities.

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SUBJECT: EDUCATION OF STUDENTS IN FOSTER CARE (Cont'd.)**Student Privacy**

As appropriate, the BOCES will collaborate with SED and/or the LDSS to determine what documentation related to a student in foster care should be shared among involved parties. In all cases, the BOCES will comply with all statutory requirements to protect student privacy, including the Family Educational Rights and Privacy Act (FERPA) and any other applicable privacy requirements under federal, state, or local laws.

45 USC Section 6312

45 CFR Section 1355.20(a)

US DOE, Non-Regulatory Guidance: Ensuring Stability for Children in Foster Care (June 23, 2016)

Education Law Sections 3202 and 3244

Memorandum from NY St. Educ. Department on Educational Stability and Transportation Provisions for Students in Foster Care Memo (December 2, 2016)

NOTE: Refer also to Policies #7240 -- Student Records: Access and Challenge