

OESE Memo Provides LEAs Guidance on Foster Care Students' Educational Placement

On May 19, 2023, Office of Elementary and Secondary Education Deputy Secretary Jeffrey A. Fuller sent a PennLink memo to all LEAs titled *Foster Care Students' Educational Placement*. The PennLink reminds LEAs of the following.

Ensuring Educational Stability for Children and Youth in Foster Care

The purpose of this PENN*LINK is to review and remind local education agencies (LEAs) of the key implementation requirements of the Every Student Succeeds Act's (ESSA) provisions for children and youth in foster care. It highlights the duties and responsibilities of LEAs to ensure educational stability for students in foster care, including those in residential facilities.

The Pennsylvania Department of Education (PDE) and the Pennsylvania Department of Human Services (DHS) previously issued joint [guidance](#) on the implementation requirements among LEAs and county children and youth agencies (CCYA) in 2016. The two Departments also provide an online resource hub, pafostercare.org, which is made available through a partnership with the Center for Schools and Communities.

LEA Responsibilities

Title I, Part A of the Elementary and Secondary Education Act, as amended by ESSA requires LEAs in Pennsylvania to ensure all of the following related to children in foster care:

- Identify and establish a local-level Foster Care Point of Contact (POC);
- Participate or initiate a "Best Interest Determination" (BID) conference in conjunction with the placing CCYA and associated LEAs and necessary stakeholders when children enter or change foster care placements, including residential placements;
- Ensure that transportation is promptly provided, arranged, and funded for children and youth in foster care needing transportation to remain in their school of origin; and
- Ensure that children enrolling into their district of foster care residence are enrolled immediately, even if records normally required for enrollment are not available.

The Best Interest Determination (BID)

Children in foster care have the right to remain enrolled in their school of origin unless there is determination that it is not in the child's best interest to attend the school of origin. As reflected in the [Non-Regulatory Guidance for Ensuring Educational Stability for Children In Foster Care](#) limiting educational disruptions is necessary to ensure that "students in foster care have the opportunity to achieve the same high levels as their peers." A BID conference must be held as soon as possible after the child has experienced an entry or change in placement and a child should remain enrolled in their prior school and provided with appropriate transportation until a BID conference is conducted and a decision is made regarding school stability. The BID conference should include the legal educational decision maker, representatives from the school district of origin, district of current resident placement, placing child welfare agency and the staff from residential facilities when applicable. The student's preferences should also be taken into consideration in order to make a "holistic and well-informed" decision on behalf of the student, as outlined in the Non-Regulatory Guidance. A [statewide online directory](#) of LEA POCs and child welfare agency Education Liaisons assisting students in foster care is available. These stakeholders must review and assess whether it is in the student's best interest to remain at their school of origin or enroll in the school associated with the current foster care placement. A child

or youth who exits the foster care system should remain in their current school until the end of the school year whenever possible.

It is important to note that students in foster care may need or require special education services and may have an individualized education program (IEP). In these instances, the student's IEP Team must be included in the BID conference and the decision should be based on the student's individualized needs. LEAs are encouraged to consult with the PDE Bureau of Special Education as needed to determine appropriate application of state and federal requirements for students in foster care who are in need of or receive special education.

BIDs must occur for students during their initial entry into foster care and should be completed whenever changes in living placement occur. Successive school changes should only take place if all participants in the BID conference agree a school change is in the student's best interest. During the interim of the BID conference, when disagreements regarding best interest arise, or until a final determination is reached and understood by all parties, students in foster care should remain in their current school to limit education disruption. Parties should collaborate and make every effort to support a short-term plan for the student's educational continuity.

Students in foster care that change schools due to their entry or change in foster care placement are included under 24 P.S. § 13-1331.1 ([Act 1 of 2022](#) Assisting Students Experiencing Education Instability). Act 1 of 2022 promotes timely high school graduation and facilitates equal access to academics and extracurricular activities and the removal of systemic barriers for foster students and other students experiencing education instability. LEAs should review the [Act 1 of 2022 Basic Education Circular](#) to implement these requirements when students in foster care change schools.

Children in Foster Care Placed in Residential Facilities

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 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, childcare institutions, and pre-adoptive homes. Children in foster care who reside in residential facilities must be afforded the same educational rights as children in any other type of foster care placement, including the right to remain in their school of origin.

While it may not always be feasible for students in foster care residing in residential facilities to remain in their school of origin, changes to educational placement/school attachment should only be determined through the BID process. A facility's on-site school should never be presumed to be the default educational placement. 24 P.S. § 13-1306 entitles students living in residential facilities to attend the local public school district in which the facility is located unless a court order specifies otherwise. A child in foster care should be able to attend public school unless it is determined not to be in the child's best interest through the individualized BID process.

Immediate Enrollment

If a determination is made that remaining in the school of origin is not in the child's best interest, the enrolling LEA must ensure that a child in foster care is immediately enrolled in their new school and promptly provided with transportation even if the student does not have documentation required for enrollment. The enrolling school must contact and collaborate with the student's prior school for relevant records. The placing CCYA should share appropriate education-related records as available with the enrolling school. LEAs should review and revise

their policies and practices to remove any barriers to immediate enrollment and records transfer for their children in foster care.

Providing, Arranging, and Funding Transportation

Some children in foster care will need transportation to remain in their school of origin. It is essential that transportation is promptly secured to ensure that students do not miss school. LEAs must collaborate with CCYAs to ensure that transportation for children in foster care is provided, arranged, and funded. LEAs are required to maintain a transportation plan(s) with CCYAs with which they work. LEAs may use a transportation plan [template](#) provided by PDE and DHS to complete their plan. Best practice recommends that LEAs review their transportation plan(s) with the CCYAs with which they work at least every three years or as needed to best meet the needs of students in foster care. New or revised plans should be submitted to pafostercare@csc.csiu.org.

Students in foster care requiring specialized transportation as outlined in an IEP must also be accommodated in accordance with IDEA and any other applicable laws.

For more information about the topics addressed in this PENN*LINK, please see pafostercare.org or email your questions to pafostercare@csc.csiu.org. You may also call (717) 763-1661 ext. 171.