



FACT SHEET

School Stability & Immediate Enrollment for Children in Foster Care

August 2019

It is estimated that children in foster care change living placements on average two to three times while in care, and a third of older youth experience five or more school changes.¹ Children lose four to six months of academic progress with each school change.² Too often, credits earned at one school do not transfer or are not recognized towards graduation. These students are more likely to miss school, be placed in inappropriate classes, and fail to receive the special education and remedial services they need, due in part to the absence of a consistent and involved educational decisionmaker. Too often, youth in foster care lose hope and give up.

To address these issues, the federal *Every Student Succeeds Act* (ESSA)³ ensures school stability and immediate enrollment for all children in foster care. This fact sheet explains the important protections under this law and how these requirements are implemented in Pennsylvania.

WHAT THE LAW REQUIRES

Under ESSA, which was adopted in 2016, every state must describe the steps its state educational agency will take – in collaboration with the state’s child welfare agency – to ensure school stability for all children in foster care.⁴ Specifically, the Pennsylvania Department of Education must assure that a child in foster care enrolls or remains in the child’s school of origin, unless a determination is made that this is not in the child’s best interest, “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.”

If a determination is made that it is not in a child’s best interest to remain in the school of origin, the child must be “immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment.” The enrolling school must immediately contact the child’s last

¹ Fostering Success in Education, National Factsheet on Educational Outcomes of Children in Foster Care, National Working Group on Foster Care and Education (April 2018)

http://www.fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?EntryId=2100&Command=Core_Download&method=inline&PortalId=0&TabId=124

² Katherine C. Pears, Hyoun K. Kim, Rohanna Buchanan, and Philip A. Fisher, *Adverse Consequences of School Mobility for Children in Foster Care: A Prospective Longitudinal Study*, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4618793/>.

³ *Every Students Succeeds Act*, 20 U.S.C. § 1703.

⁴ *Every Students Succeeds Act*, 20 U.S.C. § 1703(f).

school to obtain relevant academic and other records. Transportation to support school stability may be determined by state law or agreement between the local education agency and the child welfare agency. Finally, each state education agency must designate a point of contact to oversee implementation of these provisions, and local education agencies must also designate “foster care points of contact” if there are points of contact within child welfare agencies.

HOW THE LAW IS IMPLEMENTED IN PENNSYLVANIA

Joint Statewide Guidance

The Pennsylvania Department of Education (PDE) and Department of Human Services (DHS) issued [joint guidance on the roles and responsibilities of LEAs and County Children & Youth agencies to ensure school stability for children in foster care](#). This guidance outlines how schools and agencies must collaborate at the local level to make student-centered best interest determinations and to develop memoranda of understanding and transportation plans to govern how transportation will be arranged and any additional costs shared to support students. The guidance makes clear that there is a presumption in favor of school stability and that children should remain in the same school during the pendency of any dispute. The guidance also clarifies that court orders must be followed.

Guidance Document Tools

PDE has developed a series of tools available on the www.pafostercare.org website for LEAs and child welfare agencies to use in determining best interests and developing or revising MOUs or transportation plans, and to address and resolve disputes:

1. [Transportation Agreement Memorandum of Understanding \(MOU\)](#)
2. [Local Transportation Plan Template](#)
3. [PA Transportation Plan Guide](#)
4. [Best Interest Determination \(BID\) Form](#)

Points of Contact

In order to ensure and enhance collaboration and to align education and child welfare systems to improve educational outcomes for foster care youth, local education agencies and county children and youth agencies have designated “points of contact.” In the child welfare system, they are known as “Education Liaisons.”

To identify your school district or charter school’s point of contact, view the [LEA Foster Care Point of Contact Directory](#). To contact an Education Liaison at a county children and youth agency, view the [Pennsylvania Children and Youth Services Education Liaisons](#). In addition, PDE has designated Foster

Care Regional Coordinators who can also help students, families, and others to resolve issues. A listing of these coordinators can be found [here](#).

LEA Foster Care Point of Contact (POC) responsibilities include but are not limited to:

- Coordinating with the corresponding children & youth office to implement the foster care provisions;
- Sharing in the development of a process for making the best interest determination;
- Documenting the best interest determination;
- Facilitating the transfer of records including immunizations, medical records, and copies of IEPs and Section 504 plans to ensure immediate enrollment;
- Facilitating data sharing with children & youth offices, consistent with FERPA and privacy protocols;
- Developing and coordinating local transportation procedures;
- Sharing in making the best interest determination and resolving transportation disputes;
- Ensuring that children in foster care are enrolled in and regularly attending school; and
- Providing professional development and training to school staff on the Title I foster care provisions and education needs of children in foster care, as needed.

ROLE OF COURTS

The Pennsylvania Juvenile Court rules require judges to inquire into a child’s education status, school stability, educational placement, and appropriateness of the child’s education – including access to special education and remedial education services – at all stages of the adjudicatory process.⁵ Courts are also required ensure that every child in both dependency and delinquency matters has an active educational decision maker.⁶ In May 2018, new rules went into effect that require judges to address and ensure school stability for youth in the juvenile justice system.⁷ As a result, courts may issue orders directing child welfare agencies and schools to collaborate to ensure that a child in foster care or in the juvenile justice system remains in their current school.

WHAT THE PROCESS LOOKS LIKE ON THE GROUND

School districts have adopted different policies and practices to ensure school stability, but all districts and charter school have identified “points of contact” and hold “best interest determination” (BID) conferences to determine – in collaboration with children and youth agencies, and others – whether remaining in the same school is in the best interest of the child. This conference will consider

⁵ See *e.g.*, Pa. R.J.C.P. 1142 (e)(4) (requiring court to make findings and issue orders addressing educational needs of child at shelter care hearing).

⁶ See Pa. R.J.C.P. 1147 and Pa. R.J.C.P. 147.

⁷ Pa. R.J.C.P. 148

any court order issued by a judge in a dependency or delinquency case. In most cases, children in foster care will remain in the same school. When this is not in a child's best interest, school districts are aware that they must enroll a child in foster care immediately, even without the submission of required enrollment documents.

RESOLVING DISPUTES

If a dispute arises regarding whether or not a child is entitled to school stability or immediate enrollment in a new school, you should talk to the school district or charter school's point of contact. If the dispute is not resolved, you may ask to speak to the foster care regional coordinator. If this does not resolve the dispute, contact Matt Butensky, Pennsylvania's designated state foster care coordinator:

Matthew Butensky
Youth Development Coordinator - Educational Stability for Foster Care Youth
Center for Schools and Communities
275 Grandview Avenue
Camp Hill, PA 17011
717-763-1661 x171
570-238-0258 (cell)
717-763-2083 fax
www.center-school.org
<http://www.pafostercare.org/>

RESOURCES

For more information on what schools can do to support children in foster care, see the attached *Recommended School Policies and Practices to Support Children in Foster Care*.

For more information regarding ESSA, consult the federal guidance issued by the U.S. Departments of Education and Health and Human Services as [Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care](#) or review a [summary of the provisions of the guidance](#) published by the Legal Center for Foster Care and Education, a collaboration of the Education Law Center, Juvenile Law Center, and American Bar Association Center on Children and the Law.

The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, trainings, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness.

ELC's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice – visit www.elc-pa.org/contact or call 215-238-6970 (Philadelphia) or 412-258-2120 (Pittsburgh) – or contact another attorney of your choice.

RECOMMENDED SCHOOL POLICIES AND PRACTICES TO SUPPORT STUDENTS IN FOSTER CARE & OTHER HIGHLY MOBILE STUDENTS

School boards and administrators can improve educational outcomes for children in foster care by making changes to their policies and practices to support student success. Here are some topics to consider.

SCHOOL STABILITY

Children in foster care, like students experiencing homelessness, are entitled to school stability. School districts should ensure that their process supports school stability. Consider tracking the number of students who remained in their school when they experienced a change in living placement and report on what percentage of children they supported to stay in the same school. School districts should also track the reasons that students changed schools.

ENROLLMENT & WELCOMING CHILDREN IN TRANSITION

In addition to ensuring immediate enrollment in a new school, children in foster care benefit from the opportunity to tour the campus prior to starting school. Several school districts have developed mentoring programs where children in foster care are assigned to a student or teacher mentor. Mentorship programs have been shown to support students to be successful and increase graduation rates. Talk to children about their interests and goals and programs the new school offers. Children should also be supported to participate in sports teams and extracurricular activities even a deadline for enrolling in these programs has passed.

ATTENDANCE

Ensure that school policies accurately reflect that students in foster care must be excused for any conferences, appointments, meetings, visitations or hearing dates relating to child welfare case, including court appearances, meetings, and sibling visitation.

EDUCATION RECORDS, CREDIT ASSESSMENTS, & GRADUATION PLANNING

Many children in foster care have been in several different schools and also may have attended an “on grounds” school while in a residential placement. These students often struggle to locate prior records, know how many credits they have earned towards graduation, and what courses they need to graduate. There are many things that schools can do support these students to be successful.

First, obtain all education records from prior school placements. Your careful review of these records will identify all credits earned, including partial credit for work completed while the child was in a short-term situation. Notably, many courses at on-grounds schools may have names that sound like electives when they are actually core subjects. All credits granted by a public school must be accepted upon the

transfer of the student.¹ Districts should accept credits from all licensed private academic schools, residential schools, and day treatment programs.

Second, develop a graduation plan for the student so that they are clear about what credits, courses, and projects they need to graduate. Consider whether the student qualifies for a waiver of high school graduation requirements such as local course specific mandates or other exemptions based on state law. The Pennsylvania School Code recognizes the authority of chief school administrators (*e.g.*, Superintendents) to “waive” state high school graduation requirements on a case-by-case basis “for good cause.” Such waivers may be granted to accommodate students who experience “extenuating circumstances” expressly including “frequent transfers in schools” or based on a failure to complete a Senior Project.² To learn more about how other jurisdictions have awarded full or partial credits go to: <https://kids-alliance.org/new-tool-to-help-foster-youth-graduate-on-time..>

REMEDIAL HELP

Many children and youth in foster care struggle academically due in part to disruptions in their education, a higher likely of developmental delays, and the trauma caused by abuse and neglect. It is well documented that remedial programs can make a dramatic difference, particularly one-to-one tutoring, to improve academic success.³ Many school districts and organizations across the country have developed remedial support programs to better meet the needs of students in foster care. For example, [Treehouse](#) provides children in Washington state with academic & other essential supports they need to graduate from high school. [Kids in School Rule](#) in Cincinnati, Ohio also provides targeted remedial help and to students in foster care. To learn more about schools can do to support students in foster care go to the [Legal Center for Foster Care and Education](#), a collaboration of the Education Law Center, [Juvenile Law Center](#) and the [American Bar Association Center on Children and the Law](#).

SCHOOL DISCIPLINE

The impact of a child’s experience in foster care should be taken into account when determining whether or not to impose any exclusionary disciplinary measure or change in school placement. It is important to recognize that in most cases an expulsion will result in the termination of a child’s living placement and often results in a more prolonged time in foster care and undermines the ability of a child to secure a permanent, loving home. Talk to the child’s caseworker, foster parent, etc. about the consequences of any proposed disciplinary action. A child should not be subject to an exclusion or change in placement if the child’s living placement would be impacted.

TRANSITION AND POST-SECONDARY

Each student in foster care should receive individual college counseling, including assistance with applying to post-secondary opportunities. Older youth in foster care as well as those who age out of the system at age 18 often have no one to help them navigate the complicated college application and financial aid processes.

¹ 22 Pa. Code § 4.74

² 22 Pa. Code § 4.51-d

³ Olivia Erickson, *Foster Care and Education: Exploring the Success of Interventions Aimed to Improve Academic Achievement of Foster Children*, available at https://sophia.stkate.edu/cgi/viewcontent.cgi?article=1842&context=msw_papers