

Students in Foster Care

Tool Kit for Local Education Agencies and Local Child and Family Services Agencies 2021



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Guidance Overview

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections) (P.L. 110-351) and the Every Student Succeeds Act of 2015 (ESSA) (§11112 [c][5][A] and [B]) require state and local education agencies to collaborate with child welfare agencies to promote school stability and educational success for students in foster care.

Additionally, ESSA established new state statutory requirements regarding the educational stability of students in foster care covering areas such as school selection and best interest decision-making and transportation. The new law makes it clear that the school district where it has been determined the child will attend must provide transportation and will be able to receive transportation state aid for the allowable costs. The law also provides that any uncovered or unreimbursed transportation costs must be split 50/50 between the school district and Child and Family Services Division (CFSD) local offices. These provisions are discussed more fully later in this guidance document.

To ensure that students in foster care attend the school that is in their best interest and have transportation to the school, the Montana Office of Public Instruction (OPI) and the Montana Department of Public Health and Human Safety (DPHHS), Children and Family Services Division (CFSD) have collaborated to develop a state policy for school transportation of students placed in foster care.

This state policy seeks to prepare local education agencies (LEAs), Head Start, and local CFSD offices to meet the needs of children placed in foster care by focusing on the creation of processes and relationships between the local agencies. The needs of children placed in foster care vary widely, so it is essential that a standard process is created at the local level to address these needs quickly, effectively, and sensitively. A consistent process with clearly defined roles and timelines for the LEAs and CFSD will provide for the needs of these students in a timely and appropriate manner. In all cases, the presumption is that the child remains in the child's school and district of origin, unless the Child Protection Specialist (CPS) determines it is not in the best interest of the child. The local agencies will work together to ensure that the child is transported to the school determined to be in the child's best interest and educational stability is maintained.

The purpose of this toolkit is to provide LEAs and CFSD staff with instructions, documents, and forms to facilitate transparent communication between local agencies as they work to meet the educational needs of a student in foster care.

Terms

Foster Care Point of Contact – The school district must appoint a Local Education Agency Foster Care Point of Contact (LEA POC) who will work collaboratively with representatives from CFSDs if there are any school-aged foster care children living in the district's attendance area. The LEA POC shall not be the same as the homeless liaison designated under McKinney-Vento for homeless students, unless that person has sufficient time, capacity, and ability to carry out the duties of both positions. Likewise, each CFSD must also designate a point of contact for school districts (CFSD POC). The OPI and the CFSD will also appoint state-level points of contact to assist local agencies (see [OPI Federal Programs Unit - Foster Care](#) for contact information. CFSD POCs and LEA POCs can be found on the [Montana Office of Public Instruction](#) website.

Child Protection Specialists (CPS) – The Child and Family Services Division (CFSD) must appoint a local Point of Contact (POC) who will work collaboratively with representatives from the LEA if there are any school-aged students in foster care living in the district's attendance area. The CFSD POC will be the student's assigned CPS. The CPS is responsible for making all necessary decisions pertaining to a student's individual case and educational planning.

District of Origin – The school district within the State of Montana in which the student was attending a public school or preschool or the public school attendance area where the family resided before the placement into foster care, which is different from the district of residence.

School of Origin – The public school the child is currently attending when first placed in foster care or at the time of a change in foster care placement. Although the district of origin will never change for the duration the child is in foster care, the school of origin may change based upon a best interest determination.

District of Residence – The school district within the State of Montana in which the child is residing after foster care placement, which is different from the district of origin.

District of Attendance – The school district where the student placed in foster care is enrolled after a best interest determination is made.

Best Interest Determination – A collaborative process between LEAs and CFSD, from which the CFSD will determine whether it is in a child's best interest to remain in the school of origin once a child has been placed in foster care or changes foster care placement.

Local Education Agency (LEA) – The term LEA or "district" means the territory, regardless of county boundaries, organized under the provisions of this title (20-6-101, MCA) to provide public educational services under the jurisdiction of the trustees prescribed by this title. High school districts may encompass all or parts of the territory of one or more elementary districts.

Local Child and Family Services Division (CFSD) Offices – The local Child and Family Services (CFSD) office child welfare governmental entity whose local Child Protection Specialist (CPS) commissioner of social services (or the commissioner of OCFS) has care and custody of a child needing educational assistance. This includes, but is not limited to, placements in certified or approved foster family boarding homes, agency-operated boarding homes, group homes, group residences, or childcare institutions.

Tribal Child Welfare Agency – Each of Montana's seven (7) reservations has their own tribal welfare agency and only have jurisdiction and responsibility to serve tribally enrolled children. This includes, but is not limited to, placements in certified or approved foster family boarding homes, agency-operated boarding homes, group homes, group residences, or childcare institutions. In general, the tribal child welfare agency has case management responsibility of a child in foster care.

Currently the Office of Public Instruction does not have an MOU with any tribal child welfare agency to identify tribal foster care children in AIM.

School Stability and Transportation Policy for Students in Foster Care Implementation

This policy is focused on making certain that timely communication occurs between CFSD and LEAs. The intent is that when a child is placed in foster care or has changed foster care placement, the educational needs of the child will be met quickly, including the provision of transportation by the district of attendance, because the necessary processes are already well-established, (Montana School Boards Association Model Policy 8100).

- **Local Transportation Agreement:** To meet this goal, CFSDs and LEAs are encouraged to prepare a *Local Transportation Agreement for Students in Foster Care* (see [OPI's Montana School Bus Standards](#)) that outlines local transportation procedures. This agreement also provides both local agencies with a list of key contacts for foster care issues, outlines the information to be provided by the school district in support of the best interest determination to be made by the CPS in consultation with the LEA. These transportation agreements must be agreed to between an LEA and the CPS assigned to the case, as well as with any other CFSD that has children in its care and custody attending school within the LEA.
- **Internal Protocols:** School districts must develop internal protocols that will ensure that the following programs are immediately informed when the district is notified that a child has been placed in foster care or has changed foster care placement.
 - Title I and other federal programs
 - Transportation
 - School Nutrition
 - Special Education
- **Transportation document for a Student Placed in Foster Care:** When a student is placed in foster care, and after any subsequent change in foster care placement, school districts should prepare the *Determination of School Transportation for a Student in Foster Care* [TransAct](#) form FC-04. The plan serves as a record that transportation is being provided in a timely manner that is consistent with the protocol.
- **Reimbursable Transportation Costs:** A student in foster care is entitled to receive transportation to attend the school of origin. Such transportation shall be provided and funded by the school district of attendance and shall be reimbursable up to 60 miles each way. Likewise, when a student is designated to attend the school district of residence, rather than the school of origin, any cost incurred for transportation of that student is reimbursable as long as it does not exceed an amount determined by the commissioner of education. (Check with [transportation](#) or [school finance](#).)
- **Excess Allowable Transportation Costs:** Excess costs beyond those reimbursed as discussed above shall be shared equally between CFSD and the designated school district of attendance. "Excess transportation costs" has been defined in Education Law §3244 as "the difference between what a school district 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." The LEA and CFSD are expected to consider and utilize all allowable funding sources, including any available federal funds, to cover additional
- **Transportation Costs.** The LEA must ensure that children in foster care promptly receive transportation without delay as needed to the school determined to be in their best interest.
- **Dispute:** During any dispute regarding the best interest determination or responsibility to

provide transportation, the student has the right to continue to attend the school of origin.
[ESEA section 1111(g)(1)(E)(i)]

Responsibilities

Local Department of Social Services (CFSD):

To comply with federal child welfare law, state regulation(s), state policy, and meet the goal of ensuring the educational stability of children placed in foster care, the CFSD will commit to the actions contained in the local transportation agreement. This agreement applies to the overall relationship between the two agencies prospectively. In addition, the CFSD will do the following:

- Inform, either orally or in writing, the school district's LEA POC as soon as possible and no later than within two business days of the child either entering foster care or changing foster care placement, that a child who is currently a student in the district has been placed in foster care or changed foster care placement. This notification occurs prior to the best interest determination and enables the LEA POC to notify relevant school personnel to prepare for the best interest determination meeting to be held within 10 days of placement or change in placement. The student must be immediately enrolled in, and attending, school. Relevant information regarding the student's placement address, school to be attended, if known at that time, and other needs should be shared.
- Collaborate with LEAs to make a best interest determination that considers the student's individual situation, educational program, and needs, and inform the school district(s) of the determination (see recommended *Best Interest Determination of School Placement for a Student in Foster Care Placement Request and Recommendation* [TransACT](#) form FC-03).
- While a permanent transportation plan is being arranged, CFSDs and school districts are encouraged to collaborate to ensure that students in foster care who remain in their current school are provided with transportation. They are encouraged to explore all available resources and employ creative strategies to facilitate transportation such as the following:
 - Use existing school district bus routes. For example, a foster parent could transport the student to an established stop where the school district bus could pick up the student.
 - Use alternate pickup and drop-off points. For example, school district A could transport the student to school district B, and then school district B could transport the student to a drop-off point within walking distance of the out-of-home placement if appropriate.
 - Use transportation available through the Individuals with Disabilities Education Act (IDEA). Students receiving special education services who have transportation marked as a related service on their Individualized Education Program (IEP) are entitled to transportation from the school district where the child is enrolled. Where appropriate, the IEP can be amended to include transportation.
 - Having the child welfare caseworker, or other agency staff transport the child.
 - CFSD may consider reimbursing the foster parent for the cost of mileage or public transportation to take the child to school.
- Keep the school district of origin, as well as the school district(s) of attendance and/or residence informed regarding changes in placement or other information essential to the maintenance of educational stability, meeting the student's educational needs, and the provision of transportation.
- Inform the local school district(s) immediately regarding any changes to its program or the staff listed as contacts on the *Local Transportation Plan for Students in Foster Care* (see [OPI's Montana School Bus Standards](#)).

School districts (LEAs):

To comply with federal and state education law and meet the goal of ensuring the educational stability of children placed in foster care, school districts must collaborate with CFSD staff to do the following:

- Appoint the LEA POC and, if appropriate, identify in each school building a designee who will be the point person (building designee) to provide information as necessary to the LEA POC.
- Provide necessary information to inform the best interest determination to be made by the CPS; updated as needed.
- Develop and implement clear written protocols for the immediate enrollment and full participation of children in foster care.
- Develop and implement clear written protocols for the provision of transportation to the school determined to be in the best interest of the child.
- Establish school district procedures that ensure children and youth in foster care receive prompt, cost-effective transportation to the **school of origin**. School districts will commence transportation as quickly as possible. School districts have a continuing obligation to transport children.
- Include staff responsible for pupil transportation as soon as possible after receipt of notice, so that appropriate long-term arrangements can be made as soon as possible.
- Share documented additional costs with the CFSD if there are additional costs incurred in providing transportation to the school of origin (school child attended at time of placement) from a placement made outside the school district of origin.

School districts will also commit to the actions contained in the local transportation agreement which apply to the overall relationship between the two agencies prospectively.

School districts must be prepared to demonstrate written protocols for their process including completed local transportation agreement(s) as well as any individual transportation plans for a student in foster care and provide proof of compliance with the transportation plan upon audit or records review by the OPI.

Responsibilities of the Foster Care Point of Contact

Office of Public Instruction

- Coordinate with the CFSD to issue joint state and tribal guidance for the implementation of state, tribal, and ESSA foster care provisions, monitor implementation, and review and revise state and tribal guidance as needed to support local implementation.
- Facilitate data sharing with CFSD and tribal welfare agencies, consistent with Family Educational Rights and Privacy Act (FERPA) and other federal, state, and tribal privacy laws and regulations.
- Monitor LEA compliance at the local level. Provide training/professional development opportunities and technical assistance to LEAs regarding school stability and educational supports for children in foster care, as needed.
- Provide training to CFSD staff, tribal child welfare agencies, and child welfare staff on the educational needs of children in foster care and on state, tribal, and local policies, as needed.

CFSD and Tribal Child Welfare Agencies

- Coordinate with the OPI's POC to issue joint state and tribal guidance for the implementation of state and ESSA foster care provisions, monitor implementation, and review and revise state and tribal guidance as needed to support local implementation.

- Facilitate data sharing with the OPI, consistent with Family Educational Rights and Privacy Act (FERPA) and other federal, state, and tribal privacy laws and regulations.
- Monitor CFSD staff compliance at the local level. Provide training/professional development opportunities and technical assistance to CPSs regarding school stability and educational supports for children in foster care, as needed.
- Provide training to LEA and child welfare staff on the educational needs of children in foster care and on state and local policies, as needed.

Local and Tribal Department of Child and Family Services

- Coordinate with the corresponding LEA POCs on state, tribal, and federal law and ESSA implementation, including the immediate enrollment in a new school when a school change is determined to be necessary to meet the best interest of the child placed in foster care and coordinating transportation services.
- Follow all applicable statutes, regulations and CFSD or tribal policies for making timely best interest determinations in coordination with the LEA, including documenting the decision and notifying necessary school district personnel.
- Follow procedures to notify the LEA POC when a child has been placed in foster care or when there has been a foster care placement change.
- Coordinate with applicable school authorities for the immediate transfer of records per 20-1-213, MCA, including immunization records, medical records, and copies of IEPs and 504 Plans.
- Coordinate transportation agreements with LEA POCs.
- Coordinate with the LEA POC to facilitate information necessary to support casework contact regarding the educational stability and progress of children in foster care, consistent with (FERPA) and other federal and state privacy and or confidentiality laws and regulations.
- Monitor that children in foster care are immediately enrolled in and regularly attending school. Serve as a primary contact between schools, families, and other service providers to assist and coordinate educational services and supports for children in foster care.

Factors to be considered at the best interest determination meeting include, among others:

- Safety concerns, which could include negative relationships or concerns about bullying
- Child's preference to change schools or remain in the current school
- Parent's preference to have the child change schools or remain in the current school
- The appropriateness of educational programs in the current school or another school, and how each school serves or can serve the child's needs (including special education and other interests)
- Expected length of child's foster care placement, considering whether the child is likely to be returning home after a brief stay in foster care, or whether a change in placement is anticipated in the near future
- Child's permanency plan
- Child's need for proximity to the family
- Placement with siblings or relatives
- Available foster care resources
- Child's age
- Child's grade level
- Child's maturity level
- Number of school disruptions the child has already experienced
- Other child-centered needs, including social adjustment and well-being (for example, what are the strengths of the child's ties to peers and staff members at the current school; how would changing schools affect the child emotionally)
- How changing schools would affect the student's ability to earn full academic credit, proceed to the next grade, or graduate on time
- Involvement in extracurricular activities
- Input from representative of child's current school at time of removal or move
- Proximity of placement home to child's current school
- Length of commute and its impact on the child
- What school siblings attend
- What schools any other children in the foster home attend
- Point of time in school year and whether the timing of any school transfer would coincide with a logical juncture such as standardized testing, report card period, end of semester, end of school year

The cost of school transportation is not to be a factor in determining the best interest of the child for educational stability.

State and Local Education Agency Points of Contact

The Office of Public Instruction Foster Care Point of Contact Responsibilities

The OPI POC serves as the primary contact with CFSD. Both agencies agree to collaborate to ensure the educational stability of students in foster care. Additionally, the POC is a resource to LEAs and CFSDs to assist with matters relating to foster care students and school.

Responsibilities of the OPI POC include, but are not limited to the following:

- Facilitating data sharing with CFSD, consistent with FERPA
- Monitoring LEAs to ensure compliance with state and federal requirements
- Providing professional development and technical assistance to LEA POCs and other school personnel

Local Education Agency Foster Care Point of Contact (LEA POC) Responsibilities

The LEA POC serves as the primary contact between schools, families, the CFSD, and other service providers. The LEA POC also advocates for prompt and appropriate actions that further the educational well-being of students in foster care. The LEA POC has the capacity and resources to guide the implementation of state and federal requirements for students in foster care.

Responsibilities of the LEA POC include, but are not limited to the following:

- Coordinating with the CFSD to develop processes for implementing state and federal requirements
- Notifying the school building designee and other school personnel including, but not limited to, administration, transportation personnel, PPS personnel, as needed, of the student's placement in the school
- Facilitating immediate enrollment and transfer of records from the school district where the student's records are located
- Developing and coordinating transportation protocols and plans
- Participating in best interest determinations, as needed
- Facilitating the enrollment and regular attendance of students in foster care
- Assisting students who have transferred schools with integration into the new school environment
- Maintaining or increasing students' involvement in appropriate programming including, but not limited to, career and technical programs, advanced placement courses, and extracurricular activities
- Providing information and helping to educate school staff on meeting the needs of students in foster care; and
- Maintaining an updated list of school building designees

Implementation of Best Interest Determination:

Once the best interest determination is made, the **CFSD** will do the following:

- Immediately contact the district of origin and district of attendance, if different, POC(s) within 10 days of the placement of such child in foster care and earlier, if possible.
- Give written notice of such determination to district of origin's LEA POC.
- Continue its consultation with the school district of origin and/or district of attendance regarding the child's foster care placement and other issues relevant to the educational stability and well-being of the child in accordance with privacy and confidentiality requirements under federal and state law.

Once the best interest determination is made, the **LEA** will do the following:

Based on the student's best interest determination, the school will implement steps under 1, 2, or 3.

1. Where the student is placed in foster care inside his or her school district of origin and will attend school in the school of origin.

The LEA POC will be contacted by the CFSD, then the following parties in the district will be notified of the placement through the district's internal processes.

- District Superintendent
- School of Origin Building Principal
- District Transportation Administrator

The district of origin will transport the child in a manner appropriate to the child's needs from his/her placement address. The district will provide transportation as soon as reasonably possible to put a plan in place and as collaboratively agreed upon with the CFSD. The costs of expenditures associated with this transportation are allowable under the provisions of sections 3244 & 3202 of the Education Law.

2. Where the student is placed in foster care outside of his or her district of origin but will attend the school of origin in the district of origin.

When the CFSD has determined that it is in a student's best interest to remain in his/her district of origin, the LEA POCs will be notified by the CFSD.

a. Upon receipt of notice from the CFSD, the district of origin's LEA POC will notify appropriate school personnel. At a minimum, the school personnel that should be notified **within two business days or sooner** are:

- School District Superintendent
- School of Origin Building Principal
- District Transportation Administrator

b. **Transportation provision:** The school district of attendance shall provide transportation to and from the child's foster care placement to the school of origin. Any cost incurred for such transportation that is allowable up to 60 miles each way is an allowable expense. The district's transportation administrator should be immediately informed of the child's residential address, school building that will be attended, and any other special transportation needs.

- Transportation director will contact other school districts, per usual practice, to

- determine if the student can be accommodated on an existing (or reasonably modified) school transportation or public service route;
- Once this determination has been made, a decision of how appropriate services will be provided will be made.

3. Where the student is placed outside of the school district of origin and will attend school in a district outside the school district of origin (the school district of residence and the district of attendance are the same).

When the CFSD has determined that it is in a student’s best interest to attend school in a new district, the District of Attendance LEA POC will be notified by the CFSD.

- Upon receipt of notice from the CFSD, the LEA POC in the district of residence (now known as the district of attendance) will notify appropriate school personnel. At a minimum, the school personnel that should be notified **within two business days** are:
 - School District Superintendent
 - School of Origin Building Principal
 - District Transportation Administrator
- The district of attendance will transport the child in a manner appropriate to the child’s needs from his/her placement address. The district will provide transportation as soon as reasonably possible to put a plan in place and as collaboratively agreed upon with the CFSD. The costs of expenditures associated with this transportation are allowable under the provisions of *Sections 3244 & 3202 of the Education Law*.

Agreed to on the following date: _____ / _____ / _____

Authorized Signature for School District (LEA): _____

Authorized Signature for Local Department of Social Services (CFSD): _____