



STATE OF CONNECTICUT
STATE DEPARTMENT OF EDUCATION



**GUIDANCE ON THE
IMPLEMENTATION OF EVERY STUDENT SUCCEEDS ACT PROVISIONS
RE: FOSTER CHILDREN
June 5, 2017**

I. Background

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act) – required states to ensure educational stability for children in foster care, whose town of residence may change as a result of a new foster placement. Connecticut implemented the educational stability requirements of this federal law with the enactment of Connecticut General Statutes §17a-16a, which sets forth the responsibilities of local education agencies (LEAs) and the Connecticut Department of Children and Families (DCF) in regard to school district placement, transportation and related issues concerning the needs of children in foster care.

ESSA also contains foster care educational stability provisions that reinforce the requirements of the Fostering Connections Act, as implemented in Connecticut by § 17a-16a. The ESSA foster care provisions, which took effect on December 10, 2016, require state education agencies (SEAs) to ensure that LEAs collaborate with DCF to ensure the educational stability of children in foster care. Collaboration and joint decision-making between LEAs and DCF are essential for implementation.

The guidance that follows, which outlines the responsibilities of LEAs and DCF with respect to educational stability and transportation for children in foster care in Connecticut, was produced by the Connecticut State Department of Education (CSDE) in cooperation with representatives of DCF and with input from LEAs.

II. Best Interest Determinations

With respect to educational stability for children in foster care, the federal expectation is that, whenever a child is placed into foster care or there is a change in the foster placement, the state child welfare agency will promptly determine whether it is in a child’s best interests to remain in his or her school of origin.

Accordingly, §17a-16a requires that, whenever a child is placed or receives a new foster care placement, DCF “shall immediately determine whether it is in the best interests of the child to remain in the “school of origin.” In making this determination, DCF collaborates with the child’s LEA as well as key caregivers in the child’s life to be fully informed about the child and his or her educational needs. While there is a presumption under § 17a-16a that remaining in the school of origin is in a child’s best interests, an individualized best interests analysis is required in every case.

When determining whether it is in the best interests of a child to remain in the school of origin, DCF, in coordination with the child’s school, parents, foster parents, guardian ad litem (GAL), attorney or other placement providers, should consider all factors relating to the child’s best interest, including, but not limited to:

1. The student’s age and grade level.
2. The student’s preference, when age appropriate.

3. Time of academic year and academic performance.
4. The appropriateness of the current education setting, including the availability and quality of the services in the school to meet the child's educational and socio-emotional needs.
5. Current educational goals, including individualized education program (IEP) goals and objectives, for a student who has an IEP.
6. Anticipated length of time in placement and whether reunification is the family goal.
7. Number of placements to date, ability to maintain family relationships and engagement.
8. Mental and medical health of the child and the influence of the school climate on the child, including safety.
9. Safety issues.
10. Proximity and travel time to the school that the child is enrolled in at the time of the placement.
11. Preferences of the child's parent(s) or education decision maker(s).
12. Placement of the child's sibling(s).

Although travel time is an important consideration in assessing a child's best interests, to ensure compliance with the applicable federal educational stability mandates, the *cost* of transportation should not be considered when making the best interests determination.

III. LEA Responsibilities

A. Point of Contact (POC)

Each LEA shall designate a POC who shall be responsible for:

1. Coordinating with the DCF POC on ensuring educational stability for children in foster care.
2. Ensuring smooth implementation of the ESSA educational stability provisions. (Please note that unlike the CSDE POC, the LEA POC can be the McKinney-Vento Coordinator).
3. Leading the development of a local process specific to the individual LEA concerning best interest determinations and coordinating the best interest determination among DCF, the child, the child's school, parents, foster parents, GAL, child's attorney or other placement providers.
4. Documenting the best interest determination for each child under its jurisdiction.
5. Facilitating the immediate release (no later than one (1) business day) or transfer of all essential records¹ to the receiving school and immediate enrollment in cases where a child does not remain in the school of origin. All other records should be transferred as soon as practicable.
6. Facilitating data sharing with DCF, consistent with the Family Education Rights and Privacy Act (FERPA) and other privacy protocols.
7. Collaborating with the DCF POC to ensure that a transportation plan is developed and implemented for each child in foster care under its jurisdiction.
8. Providing to DCF the name and contact information of the child's current transportation provider, the current cost to the LEA of transportation to and from the child's former placement and the school of

¹Essential records include all records that are needed for the immediate enrollment of a student, including but not limited to health and immunization records, individualized education plans or 504 plans, behavior intervention plans and other records needed to determine appropriate class placement and to provide educational services.

origin and the estimated cost of transportation to and from the child's new placement and the school of origin.

9. Ensuring that children in foster care are enrolled in and are regularly attending school.

B. Best Interest Determinations

Each LEA shall collaborate with DCF to ensure that DCF has all relevant information for making best interest determinations under § 17a-16a, which shall include the following steps:

1. Assuring relevant parties can meaningfully contribute to the best interest determination.
2. Assuring priority is considered in the determination process to those students with disabilities or suspected of having disabilities to ensure the appropriateness of the provision of services as outlined in the IEP or 504 Plan.
3. Assuring key parties are involved (e.g., parent, surrogate parent, child's attorney, etc.).

C. Transportation

The LEA for the school of origin must collaborate with DCF to create clear written transportation procedures governing how transportation to the school of origin will be provided to children in foster care who are remaining in their school of origin. These procedures must ensure that children promptly receive transportation in a cost-effective manner and detail how the transportation will be provided, arranged and funded for the duration of the child's time in foster care (the transportation procedures). More specifically, these transportation procedures must:

1. Ensure that the child promptly receives transportation to the school of origin under a transportation plan developed for the child by DCF and the LEA in compliance with § 17a-16a.
2. Establish a cost effective plan based on DCF and the LEA working together to determine whether transportation can be provided for minimal or no additional costs. Examples of no-cost or low-cost options for transportation that LEAs and DCF could explore include whether:
 - a. The child may be dropped off at a school bus stop near the existing transportation system for the school of origin.
 - b. 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.
 - c. The foster parents or other family member(s) are willing and able to transport the child to school.
 - d. 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.
 - e. The child is already eligible for transportation covered by other programs. For example, Individuals with Disabilities Education Improvement Act (IDEA) funds may be used to pay for transportation services if the child's planning and placement team (PPT) determines transportation is a related service that is required in order for a child with disabilities in foster care to receive a free and appropriate public education (FAPE).
3. Provide that the cost of transportation to the school of origin will be addressed in accordance with § 17a-16a.
4. Identify other criteria to be used in making transportation decisions, including safety and reliability criteria, the current transportation arrangement for the child, the vendor providing such transportation, and the current cost of such transportation.

D. Enrollment and Transmission of Records When Child Leaves School of Origin

In cases where a child does not remain in the school of origin as a result of DCF's best interests determination, the LEAs for the school of origin and the new school must collaborate with DCF in accordance with § 17a-16a to ensure that the child is immediately enrolled in the new school, regardless of whether the child can produce the records normally required for enrollment, and provided appropriate transportation to such school. Not later than one business day after receipt of notification from DCF concerning the child's placement, the school of origin shall transmit the child's essential educational records (including immunization and health records, IEP, behavioral intervention plan or 504 Plan, if applicable) and all documents necessary for the receiving school to determine appropriate class placement and educational services to the new school as required by § 17a-16a.

IV. DCF Responsibilities

A. Point of Contact

DCF will designate a POC to serve as the primary POC between schools, families and other service providers whose responsibilities may include:

1. Serving as one of the primary contacts between children in foster care and school staff, district personnel and other service providers.
2. Coordinating with the corresponding LEA POC on the implementation of the foster care educational stability requirements.
3. Establishing a process to notify CSDE when a child has been placed in foster care in the LEA or when there has been a foster care placement change.
4. Establishing a process for coordinating on best interest determinations with the LEA.
5. Managing, for children who are remaining in the school of origin, the necessary transportation planning between the LEA and DCF.
6. Working with LEAs to ensure that children in foster care are immediately enrolled in school and to coordinate transportation services.
7. Coordinating with the LEA regarding data sharing for children in foster care, consistent with FERPA and the confidentiality of information provisions in the IDEA.
8. Coordinating services for children in foster care.
9. Informing parents, or education decision-makers of children in foster care, of the child's educational rights and providing public notice of the educational rights of these children to community stakeholders.

B. Best Interest Determinations

In collaboration with LEAs, DCF shall assist in establishing procedures/protocols for coordinating prompt provision of information for best interest determinations at the local level to include the following steps:

1. Ensuring relevant parties can meaningfully contribute in the best interest determination so DCF is fully informed when making this critical determination.
2. Ensuring priority is considered in the determination process to those students with disabilities or suspected of having disabilities to ensure the appropriateness of the provision of services as outlined in the IEP or 504 Plan.
3. Ensuring key parties are involved (e.g., parent, surrogate parent and/or child's attorney).
4. Ensuring decisions are provided in writing to all parties in collaboration with the LEA.
5. Making final best interest determinations in accordance with § 17a-16a.

C. Transportation and Enrollment

DCF shall work with LEAs to create the clear written transportation procedures described on pages 2-3, to ensure that children in foster care who remain in their school of origin continue to receive transportation to the school. Similarly, where a child does not remain in the school of origin, DCF must work with the LEAs for the school of origin and new school to ensure immediate enrollment and transmission of records, as provided in § 17a-16a. DCF's responsibilities in respect to these issues include:

1. Collaborating with the LEA to determine what criteria will be used in making transportation decisions, especially in regard to safety and reliability.
2. Collaborating with the LEA to ensure that procedures are in place to ensure transportation to the child's school of origin, if it is in the child's best interest, in accordance with § 17a-16a.
3. Ensuring that transportation to the school of origin is provided in a cost-effective manner after considering appropriate low-cost/no-cost options with the LEA for the school of origin.
4. Ensuring continued 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 maintained by DCF as part of the child's case plan.
5. Ensuring the allowable use of federal funds for the provision of transportation for foster children, both under Title IV-E of the Social Security Act and Title I of the Elementary and Secondary Education Act (ESEA).
6. Collaborating with the LEAs for the school of origin and the new school to ensure that the child is enrolled immediately in the new school and all necessary records are promptly transferred in accordance with § 17a-16a in cases where a child is not remaining in the school of origin.

D. Dispute Resolution Process Re: Transportation Issues

The LEA and DCF must make every effort to reach an agreement to transport the child and maintain educational stability. In cases where a child remains in the school of origin, there should be no interruption in the child's ability to get to school. In the event that the parties cannot come to an agreement with respect a foster child's transportation plan, DCF shall immediately provide interim transportation services to the school of origin to maintain educational stability during the dispute resolution process. However, the LEA shall continue to provide transportation services to those children receiving special transportation services pursuant to an IEP. DCF shall reimburse the LEA for the additional or extraordinary costs of such transportation as provided in § 17a-16a. Dispute resolution shall proceed as follows:

1. The DCF POC and/or the LEA POC shall contact the CSDE POC and shall provide the relevant information concerning the case along with their respective recommendations for a transportation plan.
2. The CSDE POC shall arrange for a meeting either in person or by teleconference to discuss the transportation matters within two (2) business days after receiving the POCs' submissions.
3. Within two (2) business days of the meeting, the CSDE POC shall offer his or her recommendations for the transportation plan.
4. DCF and the LEA shall accept the plan offered by the CSDE POC provided that it complies with these guidelines or other criteria developed pursuant to these guidelines.
5. If DCF or the LEA believes that the CSDE POC recommendations do not meet the criteria, the Commissioner of Education and the DCF Commissioner (or such individuals designated to act on behalf of the Commissioners) shall consult with the other to mutually resolve the matter.