

## Massachusetts Department of Elementary and Secondary Education and Massachusetts Department of Children and Families

### Educational Stability for Students in Foster Care

The Every Student Succeeds Act (ESSA), Title I, Part A ensures the educational stability of students in foster care and their equal access to the same free and appropriate public education through high school graduation as provided to other children and youth. Essential to implementation of these provisions is collaboration between the Massachusetts Department of Elementary and Secondary Education (ESE), school districts, and the Massachusetts Department of Children and Families (DCF).

This document is intended to provide guidance to districts, students in foster care, DCF staff, foster care providers, and other interested parties on selected provisions of the law.

### Contents

I. Definitions .....	2
II. Foster Care Points of Contact – Roles and Responsibilities.....	3
<b>ESE Foster Care Point of Contact (POC)</b> .....	3
<b>DCF Foster Care Points of Contact</b> .....	3
<b>District Foster Care Points of Contact</b> .....	3
III. Best Interest Determination, School of Origin, Local School District Immediate Enrollment, and Transportation .....	4
<b>Best Interest Determination</b> .....	4
<b>School of Origin</b> .....	5
<b>School of Origin – Duration</b> .....	5
<b>Local School District – Immediate Enrollment</b> .....	5
<b>Transportation</b> .....	6
IV. Foster Care Dispute Resolution Process.....	7

For additional information, including contact information, please see the [ESE foster care webpage](#).<sup>i</sup>

## I. Definitions

Terms used in this document are defined as follows:

**Best Interest Determination:** the collaborative process, based on the individual student’s unique best interests and involving input from multiple parties, used for making decisions about whether a student placed in foster care should continue to attend the school of origin. (See section III below for more details.)

**District of Origin (see below for School of Origin):** the Massachusetts school district in which a school of origin is physically located. For situations in which an individual school operates as an individual school district, the school will be considered both the school of origin and the district of origin. Examples of such single-school districts/education authorities include, but are not limited to, charter schools and regional high schools. For students whose IEPs place them in out-of-district approved private or public special education schools or collaboratives, the district of origin is the district in which the student was enrolled at the time of the DCF placement.

**Educational Decision Maker (EDM):** a person authorized to make educational decisions on behalf of a student in DCF care or custody.

**Foster Care:** placement by DCF of a student into 24-hour out-of-home care, away from his/her parents or guardians. These placements include, among others:

- foster family homes;
- foster homes of relatives;
- emergency shelters (including STARR programs and Transitional Care units);
- residential facilities;
- child care institutions;
- group homes; and
- pre-adoptive homes.

**Foster Care Points of Contact (POC):** designated people (in districts, at ESE, and at DCF) who carry out various responsibilities to ensure the educational stability and rights of students in foster care. (See section II for POC roles and responsibilities.)

**Immediate Enrollment:** when it is in a student’s best interest to leave the school of origin, enrollment in a school in the local school district (see below) must take place without delay, to prevent disruption of the student’s education.

**Local School District:** the Massachusetts school district in which the student’s foster care home, provider, or facility is physically located. When it is determined to be in a student’s best interest to leave the school of origin, the local school district must enroll the student immediately.

**School of Origin (See above for District of Origin):** the school that a student was attending at the time of placement in foster care or the school a student is attending at the time of any subsequent change in a foster care placement.

- [Return to Top of Document](#)

## II. Foster Care Points of Contact – Roles and Responsibilities

### ESE Foster Care Point of Contact (POC)

ESE has designated a [foster care POC](#)<sup>ii</sup> to work with DCF to develop guidance and training for districts to support educational stability for students in foster care. In addition, [ESE's Problem Resolution Services](#)<sup>iii</sup> staff will provide technical assistance and guidance for anyone with questions related to these matters.

### DCF Foster Care Points of Contact

[DCF area office](#)<sup>iv</sup> directors will serve as local POCs to work with districts in support of foster care students. DCF has designated a [state-level](#)<sup>v</sup> foster care POC to work with ESE to develop guidance and training for DCF area offices to support educational stability for students in foster care.

### District Foster Care Points of Contact

School districts, including single-school educational authorities, must designate a foster care POC to help ensure the educational stability of students in foster care.

These POCs are responsible for the following:

- Participating in the process for making best interest determinations in collaboration with DCF representatives, and documenting those determinations;
- Ensuring school enrollment and attendance of students in foster care and timely transfer of records, as needed;
- Developing and implementing procedures for providing and coordinating cost-effective transportation, as needed; and
- Facilitating professional development for district staff as needed to promote educational stability for students in foster care.

Through the above and other policies and procedures, districts' POCs will help ensure that students in foster care:

- Are identified and supported through coordination between districts and DCF;
- Are enrolled in and regularly attending school; and
- Have full and equal opportunity to succeed in school and to meet the same challenging state academic standards as other students, and to receive educational services for which they are eligible.

Districts should ensure that accurate information about their designated POC is available on [ESE's School and District Profiles](#)<sup>vi</sup> page through their [Directory Administrators](#).<sup>vii</sup> When the superintendent is not the POC, the district must enter its POC's name through directory administration.

DCF offices and districts that have not already established lines of communication with each other are encouraged to reach out to their corresponding POCs in the [school districts](#)<sup>viii</sup> and [DCF area offices](#).<sup>ix</sup>

- [Return to Top of Document](#)

### III. Best Interest Determination, School of Origin, Local School District Immediate Enrollment, and Transportation

#### Best Interest Determination

Best interest determinations are conducted to make decisions about the school a student will attend following a foster care placement or change in placement (to a new city/town). These decisions should be made collaboratively by the parties who are best situated to understand the student's unique needs. These parties often include DCF; some combination of the student, the student's family, and any EDM; the district and school of origin; and the local school district (as appropriate). All appropriate parties should have the opportunity to participate meaningfully in the decision making process. Every effort should be made to reach consensus regarding the appropriate school placement of a student in foster care. However, if there is disagreement regarding school placement for a student in foster care, DCF is considered the final decision maker in making the best interest determination. Under ESSA, to promote educational stability, students should continue to attend their schools of origin while best interest determinations are being made.

Best interest determinations must involve deliberate consideration of the student's unique needs and account for the benefits of educational stability. Specific factors to consider when making best interest determinations include, but are not limited to:

- student's age and grade level;
- student's preference, when age appropriate;
- preferences of the student's parent(s)/guardian(s) or EDM(s);
- student's attachment to the school, including meaningful relationships with staff and peers;
- placement of the student's sibling(s);
- distance/length of time to travel to/from school;
- time of academic year, academic performance, and skills;
- current educational goals and services;
- individual skills, needs, and social connections;
- anticipated length of time in placement, and whether reunification is the family goal;
- number of placements to date;
- ability to maintain family relationships and engagement (including in extracurricular activities, where appropriate);
- clinical/behavioral issues;
- influence of the school climate on the student, including safety issues;
- availability and quality of the services in the school to meet the student's educational and social emotional needs;
- whether the student has an Individualized Education Program (IEP) and is receiving special education and related services, or the student is receiving special education or related aids and services under Section 504, and, if so, the availability of those required services in a school other than the school of origin; and
- if the school of origin is in the best interest but only for a limited duration of time (e.g., until the end of the school year, the end of a testing or grading period, or the end of a particular grade). Additionally, the parties involved in the decision may wish to determine a time to revisit the question of whether it is in the student's best interest to remain in the school of origin or enroll locally.

Note that transportation costs should not be a factor in determining the best interest of the student for the purposes of school selection.

[-Return to Top of Document](#)

### **School of Origin**

To promote educational stability, a student has the right to continue to attend the school of origin, unless it is determined not to be in the student's best interest. Students attending their school of origin should remain enrolled in their district of origin. If it is determined to be in a student's best interest to attend a school in the local school district, then in the event of a subsequent change in foster care placement, that school becomes the new school of origin.

### **School of Origin – Duration**

If it is determined that a student's best interest is to continue to attend the school of origin, the student can remain in that school either for the duration of the student's time in foster care or until the student completes all the grades in that school, whichever takes place first. At any time that a student's EDM and other interested parties determine that remaining in the school of origin is not in a student's best interest, the student can enroll in the local school district. When a student exits foster care during a school year, we encourage districts to permit the student to continue in the school of origin through at least the end of the academic year, if in the student's best interest.

### **Local School District – Immediate Enrollment**

If it is in the best interest of a student in foster care to leave the school of origin, the student must be enrolled in the local school district immediately. To minimize disruption of the student's education, ESSA requires the district to enroll the student without waiting to receive the typical exchange of student enrollment documentation including proof of residency; academic records; IEPs; discipline records; documents evidencing proof of custody (e.g., birth certificates, or custody or guardianship orders); identification documents; and medical, health, and immunization records. However, requiring emergency contact information for a student is not considered a barrier to immediate enrollment.

To facilitate enrollment, DCF representatives will present a Notice to LEA (Local Educational Agency) form that indicates that the student is in foster care, along with their state-agency identification badge, to the local school district when enrolling students. Note: DCF also presents a Notice to LEA to the school district in which a student is currently enrolled to indicate a change of placement/residential address within the same school district and/or a change of contact information of legal guardian/foster parent(s)/education decision maker/social worker, etc.

Local school districts should assign students to schools in the same manner and according to the same process used for all other students in the district (with the exception of immediate enrollment as described above). Local school districts should prepare to provide a comparable placement for students whose IEPs call for out-of-district or other specialized placements. The local school district foster care POC must initiate a school-to-school transfer of records with the school of origin and ensure that the student is attending school while the records are being transferred.

For students with IEPs, immediate enrollment should not be delayed due to considerations regarding districts' programmatic and/or fiscal responsibilities for providing special education services. Requests for assistance in determining special education responsibilities of school districts should be directed to [ESE's Office of Special Education Policy and Planning](#).<sup>x</sup> Upon request, ESE determines the school district(s) that have programmatic and financial responsibility for implementing a student's IEP by applying the rules set forth in 603 CMR 28.10. These determinations are distinct from determinations about the appropriate school in which to enroll, and have no bearing on a student's rights under ESSA to remain in the school district of origin or to enroll in the local school district depending on the student's best interest.

[-Return to Top of Document](#)

## Transportation

Some students in foster care will need transportation to remain in their school of origin. Districts must collaborate with DCF to implement policies and procedures governing how transportation will be provided and arranged to ensure that students in foster care who need transportation to remain in their school of origin will receive such transportation while they are in foster care. Districts may supplement these policies and procedures with local ones, as appropriate.

Districts and DCF are encouraged to consider a variety of options for providing the necessary transportation in each case. The options may include using Title I funds, regional collaborations among districts, help from foster parent(s), etc. Whatever the arrangement, transportation must permit students to continue to attend schools of origin in a safe, timely, and orderly fashion.

Absent other agreements between districts and DCF, the district of origin is responsible for providing transportation to and from the school of origin. ESE and DCF are actively collaborating to explore possibilities for the state to claim federal funding through Title IV-E of the Social Security Act, to help support these transportation costs. If the state is able to receive federal approval via a Title IV-E state plan amendment, ESE and DCF would be in position to begin a claim process with those districts that have incurred unreimbursed costs to transport eligible students to and from the school of origin per ESSA. As we work towards this goal, we will be in consultation with school districts. Districts are encouraged to document all transportation costs associated with these activities.

Please note that with the passage of ESSA, “children awaiting foster care placement” were removed from the definition of “homeless children and youths” for the purposes of the Education for Homeless Children and Youths (EHCY) program. Therefore, beginning with the 2017-2018 school year in Massachusetts, students who are awaiting foster care placement should no longer be considered homeless for the purposes of reimbursement for transportation. These students should be considered students in foster care.

[-Return to Top of Document](#)

## IV. Foster Care Dispute Resolution Process

As noted above, decisions about whether a student in foster care should continue to attend the school of origin should be made collaboratively by DCF, the student (as appropriate), the student's family and/or foster family (and if different, the person authorized to make educational decisions on behalf of the student), the school and district of origin, and (when different) the local district where the student is placed, and these parties should have the opportunity to participate meaningfully in the decision-making process. Best interest determinations should focus on the needs of each individual student and take into account a variety of factors. Every effort should be made to reach agreement regarding the appropriate school placement of a student in foster care. However, if there is disagreement regarding school placement for a student in foster care, DCF will finalize the best interest determination.

When DCF and the school district(s) cannot agree about whether it is in the student's best interest to remain in the school of origin or to enroll and attend locally, and DCF makes a final decision that the district cannot accept, the party can seek review of DCF's decision by utilizing a Foster Care School Selection Dispute Resolution Process established by ESE and DCF. Decisions made through this process are not subject to review. Details are available from ESE and will be posted to the ESE's Foster Care page. Under ESSA, to promote educational stability, students should continue to attend their schools of origin while best interest determinations are being made.

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ESE and DCF will continue to work with districts and other stakeholders to help implement the new federal law. We will develop further guidance and gather best practices, and we will post additional information to the [ESE foster care webpage](#)<sup>xi</sup> when available. If you have questions or suggestions, please contact [ESE's foster care contacts](#)<sup>xii</sup> or ESE's Associate Commissioner for Student and Family Support, Rachele Engler Bennett ([renglerbennett@doe.mass.edu](mailto:renglerbennett@doe.mass.edu) / 781-338-3205).

- [Return to Top of Document](#)

### ENDNOTES:

<sup>i</sup> ESE foster care webpage: <http://www.doe.mass.edu/sfs/foster/>

<sup>ii</sup> Foster care POC: See i.

<sup>iii</sup> ESE's Problem Resolution Services: <http://www.doe.mass.edu/pqa/prs/>

<sup>iv</sup> DCF area office(s): <http://www.mass.gov/eohhs/gov/departments/dcf/contact-us/dss-directory.html>

<sup>v</sup> (DCF) state-level (POC): See i.

<sup>vi</sup> ESE's School and District Profiles: <http://profiles.doe.mass.edu/search/search.aspx?leftNavId=11239>

<sup>vii</sup> Directory Administrators: <http://www.doe.mass.edu/infoservices/data/diradmin/>

<sup>viii</sup> School districts: See vi.

<sup>ix</sup> DCF area offices: See iv.

<sup>x</sup> ESE's Office of Special Education Policy and Planning: <http://www.doe.mass.edu/sped/>

<sup>xi</sup> ESE foster care webpage: See i.

<sup>xii</sup> ESE's foster care contacts: See i.