

# Foster Care Educational Services Frequently Asked Questions (FAQ)

Q #	Answer	Applicable Citation(s) (e.g., Statutes, Admin. Code, Standards)
<b>A. Out-of-Home Care</b>		
1	<p><b>How many children are in out-of-home care each year? How long do children stay in out-of-home care?</b></p> <p>As of December 31, 2016, a total of 7,168 children were in out-of-home care placements in Wisconsin and 60% of those children were living in foster homes. The median time to discharge in calendar year (CY) 2015 was 343 days.</p> <p>For more information about children in out-of-home care, please reference the Department of Children and Families (DCF) annual reports available at <a href="https://dcf.wisconsin.gov/reports">https://dcf.wisconsin.gov/reports</a>.</p>	
2	<p><b>Why are children placed in out-of-home care? How are they placed?</b></p> <p>Children are placed in out-of-home care for a wide variety of reasons, including abuse or neglect, delinquency, uncontrollability, mental health challenges, truancy, and developmental or physical disability. In every court-ordered placement, the court must determine that continuation in the home would be contrary to the welfare of the child. Additionally, under the federal Indian Child Welfare Act (ICWA) and the Wisconsin Indian Child Welfare Act (WICWA), an Indian child may be placed in out-of-home care if it is determined that remaining in the home would result in serious physical or emotional damage to the child.</p>	<p>Wis. Stat. §§ 48.01(2)(b) 48.028(5) 48.13-48.14 48.32(1)(b) 48.355 48.63 938.01(3)(b) 938.12 938.13 938.135</p>

	<p>Most children in out-of-home care are placed through an order of the children’s, juvenile, or tribal court after a finding that a child or juvenile is in need of protection or services or is delinquent. A small number of children are placed in out-of-home care under a voluntary placement agreement (VPA) between the child's parent(s) and a public, private, or tribal child welfare agency. Under a VPA, the placement cannot last longer than 180 days, at which time a court order must extend the placement if it is to continue.</p>	25 U.S.C. §§ 1901 through 1963
3	<p><b>What are the different types of placement settings for children who are placed in out-of-home care?</b></p> <p>Out-of-home care encompasses many different types of placement settings to accommodate a child’s assessed Level of Need, among other factors. Out-of-home care providers include: unlicensed individuals who are not relatives, unlicensed relatives, relative and non-relative licensed foster homes, group homes, residential care centers, supervised independent living, and shelter care facilities.</p>	Wis. Stat. § 48.02(12r)
4	<p><b>What factors does the child welfare agency take into consideration in determining an out-of-home care placement for a child?</b></p> <p>The agency must consider (there is no priority order):</p> <ol style="list-style-type: none"> <li>a. Placement with a fit and willing relative.</li> <li>b. Placement within 60 miles of the child’s home.</li> <li>c. Placement with a sibling previously placed or placed at the same time as the child.</li> <li>d. Placement with a provider that meets or exceeds the child’s assessed Level of Need, unless the agency documents an exception that includes supports and services to the out-of-home care provider to meet the child’s identified needs and to promote the stability of the child’s placement</li> <li>e. Proximity to the child’s current educational placement.</li> <li>f. Placement with a provider that follows the Reasonable and Prudent Parent Standard as it applies to the child to ensure the child has regular opportunities to engage in age and developmentally appropriate activities.</li> <li>g. Consideration of a placement that does not require the child’s school to change, if it is safe and appropriate to do so.</li> </ol>	<p>Wis. Stat. §§  48.38(4)(bm)  48.38(4)(d)  48.38(4)(dm)  48.38(4)(br)2.  48.355(1)  938.(4)(bm)  938.38(4)(d)  938.38(4)(br)2.  938.(4)(dm)</p> <p>ESEA, 20 U.S.C. § 6311(g)(1)(E)(i)  DSP Numbered Memo 2016-03</p>

	<p>If the child is an Indian child placed in non-delinquency related out-of-home care, the agency must make one of the following placements unless there is good cause to make an exception:</p> <ul style="list-style-type: none"> <li>a. Placement in the home of an extended family member.</li> <li>b. Placement in a foster home licensed, approved, or specified by the Indian child's tribe.</li> <li>c. Placement in an Indian foster home licensed or approved by the DCF, a county department of social/human services, or a private child-placing agency.</li> <li>d. Placement in a group home or residential care center approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the needs of the Indian child.</li> <li>e. Placement in the least restrictive setting that most approximates a family, that meets the Indian child's special needs, and that is within reasonable proximity to the Indian child's home, taking into account any special needs.</li> </ul>	Wis. Stat. § 48.028(7)(b)
5	<p><b>How often is the placement of a child in out-of-home care reviewed?</b></p> <p>Federal and state laws require the court to conduct a formal hearing to review the case no less frequently than every 12 months. The court or an administrative panel reviews the case within six months of placement and every 6 months after the formal annual court review. Six-month reviews are supplemented by ongoing case decisions and informal reviews by the child's agency caseworker, his or her supervisor, and when applicable, the child and family team.</p>	42 U.S.C. § 670 et seq. Wis. Stat. §§ 48.38(5) and (5m) Wis. Stat. §§ 938.38(5) and (5m)
6	<p><b>Who determines the length of a child's placement in out-of-home care?</b></p> <p>Most children in out-of-home care (approximately 96%) are placed by a court. As a result, the court has ultimate authority over the length of a placement for most children in out-of-home care.</p> <p>The child's parent(s), agency caseworker, the placing agency, the tribe (if the child is an Indian child), the out-of-home care provider(s), and others provide input to the administrative panel or the judge who is conducting the six-month review or to the judge who is conducting the hearing.</p>	Wis. Stat. §§ 48.355 and 938.355
7	<p><b>How does out-of-home care placement lead to adoption?</b></p> <p>All children entering out-of-home care must have a permanency plan designed to ensure that a child is reunified with his or her family whenever appropriate, or that the child quickly attains a placement or home providing long-term stability. The permanency plan must include a permanency goal, such as reunification with the family (most common), and some children may also have a concurrent permanency goal. Other goals may include adoption, placement with a fit and willing relative, guardianship, or "other planned permanent living agreement." If parental</p>	Wis. Stat. § 48.38

	rights are terminated, permanency plans may include adoption, customary adoption in the case of an Indian child, or guardianship.	
8	<p><b>Where do children typically go after exiting out-of-home care?</b></p> <p>Children exit out-of-home care to several permanent options. In 2016, reunification was the most frequent discharge reason (60%). Other reasons were adoption (14%), guardianship (16%), reached the age of majority (6%), permanent placement with a relative (2%), and other (2%). For more information about children in out-of-home care, please reference the DCF annual reports available at <a href="https://dcf.wisconsin.gov/reports">https://dcf.wisconsin.gov/reports</a>.</p>	Wis. Stat. §§ 48.38(4)(fg) and 938.38(4)(fg)
9	<p><b>How are parents involved in the life of their child who has been placed in out-of-home care?</b></p> <p>In most cases, the child's permanence goal is reunification. As a result, involvement between the parents and child is encouraged and supported unless, for example, there is a severe and direct threat to the child's safety. The degree to which there is involvement and the nature of that involvement (long or short family visits, phone calls, written communication) varies from case to case. Parents' involvement with the child may increase as time goes on and reunification becomes more imminent. Parents of a child in out-of-home care usually retain most of the legal rights of any other parent (except physical custody of the child) unless limited by a court order.</p> <p>The legal mandate on child welfare agencies is, in most cases, to reunite families. Child welfare agencies provide or connect parents and children to the treatment and services needed to establish a safe home. During this treatment period, the educational laws, including those pertaining to children with disabilities, must be followed. Educational laws must be carefully interpreted to ensure both the child's educational rights and child welfare status are protected. School staff and agency caseworkers should communicate regarding the provisions of the court order when implementing programming for children in out-of-home care. Schools should keep all parties informed as to the child's progress in the same manner as any other child, unless ordered to do otherwise by the court. The child who is in out-of-home care should only be released to the custody of a person designated by the court or the child welfare agency, as appropriate.</p> <p>If a child is placed in a foster home or other out-of-home care placement by the court due to maltreatment or delinquency, the parent will generally still have authority to receive information about and make decisions about the child. The child welfare agency must notify the school of any restrictions on a parent's rights in relation to accessing pupils and pupil records based a court order. The school's visitor policy and the decision of the child welfare agency regarding who has the right to have contact with the child need to be in agreement.</p>	Wis. Stat. §§ 48.02(12) 48.023(4) 48.355(1) 938.02(12) 938.34 938.345

<p><b>10</b></p>	<p><b>Are relatives given priority when placing a child in out-of-home care?</b></p> <p>Yes. Agencies must consider relatives for placement when the child’s legal custody is to be transferred, the child is to be placed in out-of-home care, or the child is to be adopted. Placement with an available relative must be found to be in the child’s best interests.</p> <p>Relatives may be eligible for a payment under the Kinship Care program administered by the county or tribal child welfare agency. In addition, under some circumstances, the relative may choose to apply for a foster care license and receive a payment under the foster care program.</p> <p>If the child is an Indian child placed in non-delinquency related out-of-home care, the first consideration for out-of-home care placement is an extended family member of the Indian child. The definition of “extended family member” for an Indian child is slightly different than the definition of “relative” for a non-Indian child.</p>	<p>Wis. Stat. §§  48.02(15)  48.028(2)(am)  48.028(7)  48.38(4)(bm)  938.38(4)(bm)</p>
<p><b>11</b></p>	<p><b>Who is responsible for the provision of non-educational services and case management for a child in out-of-home care?</b></p> <p>Court orders must include identification of the agency primarily responsible for the provision of services to the child and the agency that will provide case management services. For children in out-of-home care, in most cases, this will be the County Department of Social/Human Services. In Milwaukee County, the DCF Division of Milwaukee Child Protective Services contracts with private agencies to provide services. If a private agency is involved, the county agency, as the purchaser of services, retains the primary placement and care responsibility. In a pre-adoptive placement, the DCF retains this responsibility.</p> <p>For children placed with private agencies, non-educational services may be provided jointly by the staff of the agency and the child welfare agency, or totally by the staff of the agency.</p>	<p>Wis. Stat. §§  46.215  46.22  46.23  48.355(2)  48.38(1)(a) and (am)  938.355(2)</p>
<p><b>12</b></p>	<p><b>How is the tribal court involved in out-of-home care placements?</b></p> <p>The Indian tribes in Wisconsin license foster homes on or near reservations. Tribal courts have either exclusive or concurrent jurisdiction to place Indian children in out-of-home care anywhere in Wisconsin or can contract for out-of-home care placements with private agencies. In some cases, tribes have agreements (called 161 Agreements created by 1983 Wisconsin Act 161) with county agencies for payment of out-of-home care costs. More information is available at <a href="https://dcf.wisconsin.gov/wicwa">https://dcf.wisconsin.gov/wicwa</a>.</p>	<p>Wis. Stat. § 48.028(3)</p>

13	<p><b>Can a child who is placed in out-of-home care have more than one caseworker?</b></p> <p>Yes. A child who is placed in out-of-home care will always have at least one caseworker who is responsible for providing support and services to the family. The primary caseworker, typically from a public child welfare agency, focuses on assessing the needs and strengths of the child, managing safety, engaging the family in the case planning process, measuring progress, and achieving timely permanence for the child. In cases where a child requires a higher Level of Care, there may be an additional caseworker from a private child placing agency, who is involved with supervising the placement and coordinating the child’s treatment plan, and then reporting back to the public child welfare agency caseworker, who is ultimately responsible for the case. The duties of each caseworker may vary from case to case, so communication with both agencies may be needed to understand their respective roles and responsibilities.</p>	
14	<p><b>Can a youth’s out-of-home care placement continue after the age of 18?</b></p> <p>Yes. A court order, under certain circumstances, can extend a child’s placement until the age of 19 or 21.</p> <p>In addition, under one condition, a placement can be voluntarily extended to age 21. Youth who will age out or have aged out of out-of-home care may enter into a Voluntary Transition to Independent Living Agreement (VTILA) if they have not yet graduated, have an IEP, and are a full-time student (full-time status is defined by the education program.).</p>	<p>Wis. Stat. §§  48.355(4)  48.357(6)  48.365(5)  48.366(3)  938.355(4)  938.365(5)  938.357  938.366</p>
15	<p><b>What resources exist for a youth who exits out-of-home care after age 18 and has not yet completed high school?</b></p> <p>While a youth is in out-of-home care, a Transition to Independent Living Discharge Plan (ILTD) is created with the youth to help ensure a youth has what he/she needs to live independently, including housing. In addition, after a youth ages out, Independent Living services are available to that youth through regional Transition Resource Agencies (TRAs). A map of the regions and contact information for TRA workers can be found at <a href="https://dcf.wisconsin.gov/map/il-r">https://dcf.wisconsin.gov/map/il-r</a>.</p>	<p>Wis. Stat. § 48.385</p>
16	<p><b>Are there alternative routes for students to achieve a high school or equivalent diploma?</b></p> <p>Yes. School districts may grant a high school diploma to a student who has been enrolled in an alternative education program, as defined in Wis. Stat. § 115.28(7)(e)1., has demonstrated proficiency in the subjects listed in Wis. Stat. § 118.33(1)(a) equivalent to that which he or she would have obtained if he or she had satisfied the credit requirement, and has satisfied the civics</p>	<p>Wis. Stat. § 118.33(1)(d)</p>

	test requirement in Wis. Stat. § 118.33(1m)(a).. More information about alternative education programs is available at <a href="http://www.dpi.wi.gov/alternativeed/index.html">http://www.dpi.wi.gov/alternativeed/index.html</a> .	
17	<p><b>How can we avoid stigmatizing children living in out-of-home care in the school system?</b></p> <p>Avoiding the stigma of residing in out-of-home care begins with the understanding that children living in out-of-home care are students who, due to certain circumstances, have been removed from their homes. Placement in out-of-home care does not mean that the child has done anything wrong, nor does it allow one to infer anything specific about the circumstances or challenges that the child’s family may be facing. Schools can dispel misconceptions through the Point of Contact who can be a knowledgeable voice within the school and community. This role is best filled by an individual who understands the child welfare system and is comfortable interacting with children and families experiencing challenges in their lives.</p> <p>Children placed in out-of-home care often report embarrassment or express concerns that exposing details of their private lives will make them feel marginalized, so it is important for the school to respect this concern and maintain appropriate confidentiality.</p> <p>In addition to a child’s own sensitivities about his/her circumstances, there are often practical barriers to children fully integrating into the school community, such as frequent absences from school due to therapy, court hearings, etc., and complications in the channels of communication. To help alleviate some of these barriers, an appropriate school staff member should maintain communication with the child’s caseworker, out-of-home care provider, and family.</p>	
<b>B. Out-of-Home Care Licensing</b>		
18	<p><b>What are the requirements for being licensed as a foster parent?</b></p> <p>Requirements for foster care licensure include background checks, physical environment checks, an assessment process, and references. Requirements also vary depending on the Level of Care (LOC) at which the foster parent is seeking to be certified. The different levels are distinguishable by the references required, amount and types of training, experience, knowledge, skills and abilities, and capacity of caregivers. Most county agencies license foster homes with a LOC of 1 or 2, and private child placing agencies license the majority of foster homes with a LOC of 3, 4 or 5.</p>	Wis. Admin. Code Ch. DCF 56
19	<b>Who has the authority to license out-of-home care providers?</b>	Wis. Stat. §§ 48.60(1)

	<p>The DCF, a county agency, tribes, or if licensed by DCF a private child welfare agency, may license foster homes according to the requirements of the state foster care licensing rule, Ch. DCF 56. Tribes, as sovereign nations, often have their own licensing regulations.</p> <p>Only the DCF has the statutory authority to license group homes, shelter care facilities, child-placing agencies, and residential care centers.</p>	<p>48.62(1) 48.625(1) 48.66(1) Wis. Admin. Code Chs. DCF 52, 54, 56, 57, 59</p>
20	<p><b>Is the background of a potential foster parent considered?</b></p> <p>Yes. Licensing rules require fingerprint-based criminal record checks, as well as child protective services record checks. Health examination documentation is required for all household members. The licensing agency may also request other information it deems necessary to determine if the applicant is fit and qualified.</p>	<p>Wis. Stat. §§ 48.685 48.75(1d) Wis. Admin. Code Chs. DCF 12 and 56 DHS 12 and 13</p>
21	<p><b>Is training required for foster parents?</b></p> <p>Yes. Training is required for foster parents <i>before</i> a child is placed in the home and also during the initial licensure period. Ongoing training is required each year of licensure beyond the initial licensing period. The required training hours increase with the Level of Care of the home. The DCF administrative rules identify basic areas of training; licensing agencies may have additional requirements.</p>	<p>Wis. Admin. Code § DCF 56.14</p>
22	<p><b>Who monitors foster parents to ensure the proper health and safety of foster children?</b></p> <p>The responsibility to monitor foster parents rests with the licensing agency and, if different, the placing agency. Monitoring is conducted from both the licensing and child welfare perspective. Private child-placing agencies are licensed by the DCF and counties are supervised by the DCF. Tribes are sovereign entities and have their own requirements for their licensed homes.</p>	<p>Wis. Admin. Code § DCF 56.15</p>
23	<p><b>Who regulates private treatment foster parents?</b></p> <p>All foster parents in Wisconsin, private treatment or otherwise, are licensed pursuant to rules promulgated by the DCF or the requirements of a tribe. The DCF, a county agency, tribes, or a private agency, if licensed by the DCF, may license foster parents. A private treatment foster parent is licensed by a private child placing agency (licensed by the DCF), according to the requirements of the state licensing rule. As such, the DCF "regulates" the licensure, but the licensing agency supervises the foster family.</p>	<p>Wis. Stat. § 48.62</p>



24	<p><b>Is there a review process for evaluating foster parents?</b></p> <p>Yes. A foster care license can be issued for up to two years. Criminal background and child protective services record checks must be conducted at least every four years. Agencies use a standardized assessment tool called The Structured Analysis Family Evaluation (SAFE) home study to assist in identifying and addressing both strengths and areas of concern that may impede functioning, as well as parenting. Licensing agencies meet with foster parents prior to licensure or re-licensure to identify training needs, support services, etc. As such, foster parents are evaluated on an ongoing basis when the agency caseworker meets with children placed in the foster home.</p> <p>If a complaint is filed, the licensing agency determines the validity of the complaint; remedial actions may result if non-compliances are identified. If an allegation of abuse or neglect is made, county child protective services and the Division of Milwaukee Child Protective Services are responsible for determining child safety.</p>	<p>Wis. Stat. §§ 48.68 48.685 48.74 Wis. Admin. Code Chs. DCF 54 and 56</p>
<p><b>C. Best Interest</b></p>		
25	<p><b>Is particular consideration given to keeping a child in the school of origin?</b></p> <p>Yes. Under the Every Student Succeeds Act (ESSA), child welfare agencies placing children consider educational stability along with a variety of other factors. Child welfare agencies are required to minimize the many disruptions out-of-home care placement causes in a child's life, including educational disruptions.</p> <p>Placement decisions are based on the best interests of a child entering out-of-home care, as mandated by law and as affected by placement priority with relatives and the availability of foster homes and other out-of-home care types. Most children are reunified with their families and it would be best to continue in the educational program near their family. A child should remain in his or her school of origin unless there has been a determination that it is not in the child's best interest. Guidance on how to make a best interest determination can be found at <a href="https://dpi.wi.gov/sites/default/files/imce/foster-care/best-interest-and-education-stability.pdf">https://dpi.wi.gov/sites/default/files/imce/foster-care/best-interest-and-education-stability.pdf</a>.</p>	<p>Wis. Stat. §§ 48.38(4)(dm) 938.38(4)(dm)  ESEA, 20 U.S.C. § 6311(g)(1)(E)</p>

26	<p><b>Who decides if a child will remain in the school in which he or she is enrolled or was last enrolled at the time of placement into out-of-home care?</b></p> <p>Under the federal Every Student Succeeds Act and Fostering Connections Act, there is a presumption that if a child is placed in out-of-home care he or she will continue in the school in which he or she is enrolled or was last enrolled (“school of origin”). A best interest determination that can overcome that presumption is made collaboratively among the child welfare agency and the local education agency (LEA) of origin and the LEA of residence. If there is disagreement after consultation with all involved, including the child (when age/developmentally appropriate) and parent, the child welfare agency is best positioned to make the final determination.</p> <p>Please see information on best interest determinations at <a href="https://dpi.wi.gov/foster-care/best-interest-determination">https://dpi.wi.gov/foster-care/best-interest-determination</a>.</p>	
----	--	--

**D. Transportation of Children in Out-of-Home Care**

27	<p><b>What are the requirements related to the costs of transportation which will allow a student in out-of-home care to remain in her/his school of origin?</b></p> <p>Federal law speaks to the sharing of costs that are “additional” and which result from the child residing in one school district (school of residence) and attending school in another district (i.e., school of origin, which is the school in which the child is enrolled or was last enrolled at the time of placement into out-of-home care). The federal Guidance defines “additional costs” in the following manner:</p> <p>Additional costs incurred in providing transportation to the school of origin should reflect the difference between what an LEA 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. For example, if the LEA provides transportation through an established bus route, there is no additional cost. If the LEA provides transportation only for the child in foster care (e.g., through a private vehicle or transportation company), the difference between the transportation costs and the usual transportation costs can be considered additional.</p> <p>The cost of transportation <b>may not</b> be a factor in determining best interest (<a href="https://dpi.wi.gov/sites/default/files/imce/foster-care/best-interest-and-education-stability.pdf">https://dpi.wi.gov/sites/default/files/imce/foster-care/best-interest-and-education-stability.pdf</a>). Once the educational placement decision has been made, it must be implemented. The law does indicate that the transportation should be provided in a cost-effective manner, and there are various, creative ways that this could occur:</p>	ESEA, 20 U.S.C. § 6312(c)(5)(B)
----	---	---------------------------------

	<ul style="list-style-type: none"> <li>• By foster parents (through the foster care payment).</li> <li>• By group home staff as an Extraordinary Payment.</li> <li>• By volunteers as individuals or through social organizations.</li> <li>• Existing public school bus routes (including, for example, a foster parent driving the child to meet a bus for the school of origin along the existing route).</li> <li>• Public transportation (based on safety, disability, age, etc.).</li> <li>• Taxis or other private transportation services (based on safety, disability, age, etc.; perhaps with a reduced-cost service contract).</li> <li>• Walking within a reasonable walk zone (based on safety, disability, age, etc.).</li> </ul> <p>While the development and implementation of transportation procedures are the responsibilities of the LEAs and the local child welfare agency, the Department of Public Instruction (DPI) and the DCF recommend that if the LEA and the child welfare agency cannot come to an agreement, the additional cost for transportation should be shared equally.</p>	
28	<p><b>Will transportation funding change if a child’s status changes from “homeless” to “placed in out-of-home care”?</b></p> <p>Yes. When the student is in out-of-home care placement, they are no longer homeless; therefore, the McKinney-Vento Act no longer applies. Students placed in out-of-home care should be served under the Title I out-of-home care provisions.</p>	42 U.S.C. § 11432(g)(1)(J)(iii)
<b>E. School Enrollment</b>		
29	<p><b>What programs and services are schools obligated to provide children living in out-of-home care?</b></p> <p>Children residing in out-of-home care are entitled to the same educational benefits as children who reside with parents in the district, including, but not limited to, special education services, field trips, athletics and other extracurricular activities, etc.</p> <p>Students residing in out-of-home care may benefit from mental health supports that are offered in schools for students with indicated needs. Individual and group counseling, case management, team meetings, crisis planning, and other services, in collaboration with the child welfare caseworker, can be offered to improve academic success in school.</p>	

<p><b>30</b></p>	<p><b>Must a school district enroll a child placed in out-of-home care, even if the placement will be short-term?</b></p> <p>Yes. A child's right to education is established under Article X, Section 3, of the Wisconsin Constitution. A school district in which the child resides (school of residence) or a school in which he or she is enrolled or was last enrolled at the time of placement into out-of-home care (school of origin) has no authority to deny enrollment to an individual between the ages of 4 and 20 years who has not graduated from high school. For educational purposes, a child placed in most out-of-home care placements is a resident of the school district where the out-of-home care facility is located, regardless of the anticipated length of placement. However, it is presumed that a child placed into out-of-home care will continue to attend the child's school of origin unless it is determined that it would be in the child's best interest to attend the school of residence.</p>	<p>Wis. Const. Art. X, § 3</p>
<p><b>31</b></p>	<p><b>Must a school district provide educational services immediately when receiving a child placed in out-of-home care?</b></p> <p>With one exception, educational services must be provided immediately. Whether a child is placed directly into out-of-home care from his or her home or moved from another out-of-home care placement, the school receiving the child must immediately request previous educational records. If the student has an Individualized Education Program (IEP), the school must implement the IEP until the school either adopts the IEP or develops a new IEP.</p> <p>Wisconsin's compulsory school attendance law requires that any adult having control over a child between the ages of 6 and 18 years shall cause that child to attend school regularly during the full period and hours that the school is in session, religious holidays excepted. Since the Wisconsin Constitution guarantees each child an education, a school district must enroll and serve a student in out-of-home care immediately. Neither out-of-home care providers nor school districts are permitted to retain children in out-of-home care at home regardless of the anticipated length of stay for the child.</p> <p>The exception noted above is in those instances when a high school student may be involved in an assessment for educational purposes upon returning to the community (e.g., when a child is released from a correctional or mental health facility).</p>	<p>ESEA, 20 U.S.C. §6311(g)(1)(E)(ii) to (iii) Wis. Stat. § 118.16(4)(cm)</p>

32	<p><b>Is it possible to have different requirements for a child in out-of-home care leaving an institution versus a home? When a child goes from an institution into a foster home, how does the school develop a program for that child?</b></p> <p>Yes. State statutes allow a school board to establish policies that provide that a high school age student may be assigned to a period of assessment as a consequence of the student’s truancy or upon the pupil’s return to school from placement in a correctional facility, mental health treatment facility, alcohol and other drug abuse treatment facility, or other out-of-school placement. These policies must specify the conditions under which a high school student may participate in the assessment without being in violation of the compulsory school attendance laws and the maximum length of time that a student may be assigned to the assessment period.</p> <p>The school district may not assign the high school student to an assessment period:</p> <ul style="list-style-type: none"> <li>• without the written approval of the student’s parent or guardian;</li> <li>• for a period longer than the time necessary to complete the assessment and place the student in an appropriate education program or eight weeks, whichever is less;</li> <li>• more than once; and</li> <li>• if the school district has an alternative education program available for the student that is appropriate for the student’s needs.</li> </ul> <p>Goals of the assessment period are to develop an educational plan for the student, implement an appropriate transitional plan, and facilitate the student’s placement in an education program in which the student will be successful. The school board is to provide students who are assigned to an assessment period with information on other education programs that the school district or other community providers have available for the student. This assessment period may not be utilized for a student with disabilities, unless his/her individualized educational program (IEP) specifically authorizes the period of assessment, and the student continues to receive a free appropriate public education (FAPE) during the assessment.</p>	Wis. Stat. § 118.16(4)(cm)
<b>F. School Funding</b>		
33	<p><b>Do school districts receive any financial aid for serving children in out-of-home care?</b></p> <p>Yes. School districts receive funding for all children provided with educational services. If a student was not included in the school’s equalization aid membership on the PI-1563 Pupil Count Report, an adjustment can be made through completing the PI-1589 Group and Foster Home FTE Log.</p>	Wis. Stat. § 121.79

34	<p><b>Which school district is responsible for funding the education of a child residing in out-of-home care: the school district in which the child resides or, if different, the school of origin?</b></p> <p>In most cases, the school in which the child is enrolled receives school aids for the child and is responsible for funding the child’s education. However, if child has a disability under the Individuals with Disabilities Education Act (IDEA), the school of residence would be responsible for the educational costs.</p> <p>Note: A child is considered a resident of the school district in which the child lives, regardless of the residence of the child’s parent(s), as long as the primary reason for the child’s residency is not school attendance. <i>State ex rel. Sch. Dist. v. Thayer</i>, 74 Wis. 48, 41 N.W. 1014 (1889). More information about residency can be found at <a href="http://sped.dpi.wi.gov/sped_sbresidency">http://sped.dpi.wi.gov/sped_sbresidency</a>.</p>	Wis. Stat. § 121.78
35	<p><b>What school district is responsible for educating a child who has been released from a Residential Care Center (RCC)?</b></p> <p>If the child is placed in a Residential Care Center (RCC) from his or her home, the school district in which the child was last enrolled before the RCC placement remains responsible. However, if the child was placed in the RCC from a facility operated by the State Department of Health Services or the State Department of Corrections, the school district in which the RCC is located is responsible. For additional information, please see <a href="https://dpi.wi.gov/wise/data-elements/district-of-residence">https://dpi.wi.gov/wise/data-elements/district-of-residence</a></p>	
<b>G. School Fees</b>		
36	<p><b>Are children residing in out-of-home care eligible for the Free and Reduced-Price Meal Program?</b></p> <p>Yes. Children who are living in out-of-home care under a court order are generally considered a family of one for the purpose of qualifying for free or reduced cost meals. See this site for more information: <a href="https://dpi.wi.gov/school-nutrition/national-school-lunch-program/free-reduced-applications">https://dpi.wi.gov/school-nutrition/national-school-lunch-program/free-reduced-applications</a></p> <p>Here is a sample application for a child in out-of-home care:  <a href="https://dpi.wi.gov/sites/default/files/imce/school-nutrition/pdf/visual-application-aid-foster.pdf">https://dpi.wi.gov/sites/default/files/imce/school-nutrition/pdf/visual-application-aid-foster.pdf</a></p>	

37	<p><b>How are activity costs handled for children in out-of-home care?</b></p> <p>If a school district pays for an activity for students, it must pay for that same expense for a child living in out-of-home care. If a parent pays for the expense, such as a field trip or athletic fee, the payment to the out-of-home care provider may cover that cost or the child welfare agency may cover it. Out-of-home care providers may also voluntarily choose to pay such costs, but they are not required to do so. In some situations, the child’s parents may be willing and able to pay this cost. In addition, schools may choose to waive fees for children in out-of-home care.</p>	
<p><b>H. Agency Interaction</b></p>		
38	<p><b>What is the administrative relationship between state agencies and counties and school districts?</b></p> <p>The state’s DCF and DPI provide oversight and establish administrative rules, standards, and policies, distribute federal and state funds, and provide resources and technical assistance. Tribes are sovereign entities and are not overseen by any state department agency unless there is a service or funding contract between the two parties. Locally elected boards control the administration of educational and child welfare services, while operating within a framework of state and federal laws and local board policies.</p>	
39	<p><b>How are school districts to be notified that a child is going to be placed in out-of-home care in the school district?</b></p> <p>When a child welfare agency places a child in a foster home or group home, notification to the school and school district that the child was placed must occur. [Note: Although not required by statute, it is best practice for school districts to create an internal communications process that ensures the appropriate school staff are notified of a placement.]</p>	Wis. Stat. § 48.64(1r)
40	<p><b>How can school districts and child welfare agencies communicate more effectively?</b></p> <p>School districts and child welfare agencies each operate under a primary group of specific statutes and rules. It is not reasonable for each person in one agency to understand all of the required procedures of the other system. However, there are recommended actions that both school districts and child welfare agencies may take to facilitate better communication.</p> <ul style="list-style-type: none"> <li>• Each agency must appoint one individual as a Point of Contact to have frequent, non-case specific contact with the other organization to communicate concerns and questions from their</li> </ul>	Wis. Stat. §§ 48.78 48.981(7) 938.78 115.298 118.125

	<p>colleagues about the other organization's policies, actions, and related issues. In some communities, an interagency task force may be warranted.</p> <ul style="list-style-type: none"> <li>• On case-specific questions, school districts and child welfare agencies may establish a procedure for clarifying specific concerns. The organizations' respective Points of Contact may be helpful in this regard.</li> <li>• Administrators in each agency should support the development of in-service training for their staff on the role and function of the other system. Each system may be able to help the other by providing speakers, training materials, and other mechanisms.</li> <li>• Individuals in either system may contact the state department Point of Contact of the other system or a tribe to seek assistance, or to register concerns when problems cannot be resolved locally.</li> </ul> <p>Use of a single individual as a Point of Contact with the schools or child welfare agencies has many advantages. This individual is familiar with the day-to-day operation of the other agency and can communicate any change in laws, regulations, or policies that affect the interagency cooperation. The Points of Contact can clarify misunderstandings and facilitate both educational and child welfare goals. Use of a Point of Contact is required by both the Departments of Public Instruction and Children and Families regarding out-of-home care, given the complexity of the topic of out-of-home care. Pupil services staff, particularly school social workers, are uniquely suited to fulfill this role for schools; however, each school district has the authority to make that decision.</p> <p>Please see the DPI webpage regarding Points of Contact: <a href="https://dpi.wi.gov/foster-care/foster-care-point-of-contact">https://dpi.wi.gov/foster-care/foster-care-point-of-contact</a></p>	
41	<p><b>How can child welfare agencies and school districts work together to help students living in out-of-home care successfully transition to adulthood?</b></p> <p>Collaboration among different providers of transition services is recommended to avoid conflicting goals or duplication of services in two or more plans.</p> <p>The child welfare agency's caseworker coordinates the youth's Independent Living Assessment and Plan in order to support life skill development and prepare the youth for adulthood. Areas addressed in the plan include, but are not limited to: education, financial self-sufficiency, employment, safe and stable housing, career planning, employment, and knowledge of community resources.</p> <p>Beginning in fall 2017, Wisconsin school districts are required to provide Academic and Career Planning services (ACP) for all student in grades 6-12. Included in the state mandate is communication between the school and parents/guardians regarding students' progress on their</p>	<p>34 C.F.R. §§ 300.320(b) 300.321(b) Wis. Stat. §§ 48.38(4)(h) 115.787(2)(g) 938.38(4)(h)</p>



	<p>planning for a successful postsecondary transition. This communication should appropriately include all care providers (including the foster parents, child welfare caseworker, therapist, et. al.). It should be noted that any student in out-of-home care for even one day on or after their 13<sup>th</sup> birthday is eligible to claim independent status on the “Free Application for Federal Student Aid” or “FAFSA.”</p> <p>If the student is a child with a disability and is aged 14 years or older, the student’s individualized education program (IEP) must contain a transition plan that identifies appropriate measurable postsecondary goals based on age-appropriate transition assessments related to training or education, employment, and, where appropriate, independent living skills. Transition services (including a course of study) needed to assist the student in reaching the stated goals are also required. Agencies providing or paying for transition services must be invited to the student’s IEP meeting if the parent or adult student consents. In addition, students with disabilities may be eligible for vocational services through the state Division of Vocational Rehabilitation (DVR) as they complete high school and enter the workforce or continuing education. Any transition goals, supports, and services may also be used to help complete the Independent Living Transition to Discharge Plan created by the child welfare agency.</p>	
42	<p><b>May schools be involved in developing or reviewing a child's treatment plan or permanency plan?</b></p> <p>Yes. Staff of the school in which the child is enrolled or the last school in which the child was enrolled must be consulted during the development of a plan for the provision of educational services included in the child’s permanency plan. Schools may also become involved in preparing a permanency plan for a child age 14 and over to assist the child’s successful transition to adulthood.</p> <p>Pursuant to 2017 Wisconsin Act 251, school districts will receive notice when a hearing on or review of a child’s permanency plan* is scheduled. Wisconsin law requires each child living in an out-of-home care placement to have a written permanency plan in place if certain conditions exist.</p> <p>These reviews may be held by the court or, if the court so determines, by an administrative review panel. The court or agency is required to notify, among others, the child’s school of the time, place, and purpose of the hearing, of the issues to be determined at the hearing, and of the fact that they may have an opportunity to be heard at the hearing. The notice must be provided in writing not less than 30 days before the hearing. The notice to the school must include the name and contact information for the caseworker or social worker assigned to the child’s case. The school will be invited to provide written comments not less than 10 working days before the review. Additionally, with the consent of the parent/guardian, the agency responsible for preparing the court report (prior to the dispositional order) and permanency plan may invite school personnel to</p>	<p>Wis. Stat. §§  48.33(1)(e) and (4)  48.38(4)(dg) and (h)  48.38(5) and (5m)  938.33(1)(e) and (4)  938.38(4)(dg) and (h)  938.38(5) and (5m)</p>

	<p>participate in the child and family team meetings to bring together all important individuals in the family's life. This is an opportunity for school staff to provide input into the child's treatment and permanency plans.</p>	
<p><b>43</b></p>	<p><b>How can differences between the school districts and the child welfare agencies be resolved in areas such as treatment plans and fiscal responsibility?</b></p> <p>If there are questions or issues regarding cost or funding, the LEA and the child welfare agency should discuss them, and should include their respective Points of Contact. Each system has a set of rules and regulations that govern their respective operations. The child welfare system provides for the costs for youth living in out-of-home care. It does not provide for educational costs, except for children in residential care centers which have their own educational programs.</p> <p>Treatment decisions for medical or psycho-social planning are primarily under the jurisdiction of the child welfare agency. Districts often have critical information that can influence how treatment plans are developed or implemented; however the child welfare agency or, in some situations, the court or parent or guardian generally has the legal responsibility to make the appropriate decisions. In the case of a dispute, the school may advocate for a different or modified approach by seeking a conference with administrative staff of the child welfare agency.</p> <p>Educational decisions that may have a bearing on the treatment plans of the child welfare agency are under the jurisdiction of the school district and may also be discussed in conference with child welfare agency administrative staff to resolve differences.</p> <p>In either case, it is in the best interest of students living in out-of-home care for the educational and treatment plans to be balanced and coordinated, and for the agencies involved to cooperate to ensure effective social, treatment, and educational programs. Other efforts, such as immediate notification when significant changes occur in either program, should also be utilized to prevent misunderstanding and to facilitate communication.</p>	
<p><b>44</b></p>	<p><b>What should school staff do if they believe that a child in out-of-home care requires more or different non-educational services?</b></p> <p>School staff who believe a child in out-of-home care needs additional or different services should first contact the child's agency caseworker or other representative of the placing agency. The Points of Contact identified by each school district and child welfare agency may also be of assistance when seeking additional information. Should those attempts be unsuccessful or result in needing additional information, it may be appropriate to contact the supervisor or agency director.</p>	

## I. Pupil Records

45	<p><b>How can pupil records be transferred from the school of origin in a timely manner?</b></p> <p>If movement of a child from one district to another is anticipated, a school district should be informed so it can forward pupil records immediately. State statutes require that a school district transfer to another school or school district all pupil records relating to a specific pupil before the end of the next working day after the school district receives written notice from:</p> <ul style="list-style-type: none"><li>• the adult pupil, parent, or guardian that the pupil intends to enroll in another school or school district;</li><li>• the new school or school district that the pupil has enrolled; or</li><li>• a court if the pupil has been placed in a juvenile correctional facility or a secured residential care center for children and youth.</li></ul> <p>It should be noted that the federal Every Student Succeeds Act (ESSA) requires that a child in out-of-home care be enrolled “immediately” and that records be transferred “immediately”. The DCF and DPI are interpreting “immediately” to mean within one business day.</p>	Wis. Stat. § 118.125(4)
46	<p><b>What can be done to better assure that credits earned by a student who enters out-of-home care are transferred from one school to another so that the student can graduate on time?</b></p> <p>Students should receive appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with school policies. Schools should work together to calculate, award, and receive partial credits and make any necessary adjustments to the student’s schedule to permit the student to complete courses started at the prior school and to participate in credit recovery opportunities.</p>	Wis. Stat. §§ 115.787 118.33(1)(a)
47	<p><b>Is a residential facility that has been providing educational services to a youth who has now enrolled in a public school required to forward the student’s educational records to the public school once the facility has received notice the student has enrolled in the public school?</b></p> <p>Yes, if the residential facility is a juvenile correctional facility, adult correctional institution, mental health institute, or center for the developmentally disabled. The statute requires that educational records be provided before the end of the next working day upon receiving written notice from the receiving school district that the student has enrolled or from the adult pupil, parent, or guardian that the pupil intends to enroll in another school district.</p>	Wis. Stat. § 118.125(4) Wis. Admin. Code § DCF 52.43(5)

	<p>Residential Care Centers (RCCs) for Children and Youth must maintain educational records for each resident as part of the resident’s case record. RCC staff must ensure that a report of the resident’s educational assessment and progress is given to the school or persons responsible for the individual’s education following discharge from the RCC.</p>	
<p><b>J. Sharing Information Between Systems</b></p>		
<p><b>48</b></p>	<p><b>What is the difference between “legal custody” and “physical custody?”</b></p> <p>Legal custody means that a person has, by virtue of a court order, the right and duty to protect, train and discipline a child, and to provide food, shelter, legal services, education, and ordinary medical and dental care. This authority is subject to the rights, duties and responsibilities of a guardian of a child and subject to any parental rights and responsibilities and subject to any provisions of the court order.</p> <p>Physical custody, on the other hand, means actual custody of a person in the absence of legal custody being granted to the physical custodian.</p> <p>For a child in out-of-home care, legal custody is generally with the parent but could also be with the child welfare agency or another individual. Physical custody is with the person with whom the child is living (e.g., the out-of-home care provider).</p>	<p>Wis. Stat. §§ 48.02(12) and (14) 938.02(12) and (14)</p>
<p><b>49</b></p>	<p><b>Is the school notified in writing of who has legal custody of a child?</b></p> <p>Since in most cases, the child’s parent retains parental rights including legal custody, schools are not generally notified of who has legal custody. Notification in writing of who has legal custody of a child is not required by statute or state policy. However, the child welfare agency must notify the school of the out-of-home care placement, which would include the child’s name and the name of the out-of-home care provider.</p> <p>It is recommended that the name(s) of the legal custodian(s), as well as other information related to the authority of a person to make educational decisions on the child’s behalf, be provided to the school in writing. This could be done by sharing information from the court order indicating the individual or agency who has legal custody of the child. If the court order is not shared with the school for confidentiality reasons, the child’s agency caseworker should notify the school in writing of the status of the child’s legal custody and the name of the individual to be contacted for educational purposes.</p>	<p>Wis. Stat. §§ 48.64(1)(r) 48.78(2)(b) 938.78(2)(b)</p>

<p><b>50</b></p>	<p><b>When should the school be notified of events or changes in the child’s life that may affect the child’s behavior and attitudes in school?</b></p> <p>Child welfare agency staff and out-of-home care providers should consider how changes in the child’s life may affect the child’s behavior and attitudes beyond the out-of-home care setting. If the child’s family, caseworker, out-of-home care provider, or other professional working with the child expresses concerns that changes in the child’s life may affect the child’s behavior and attitudes in the school setting, information should be shared with the appropriate school staff. This will allow schools to provide support and respond appropriately to the child’s behavioral changes.</p> <p>Not all case details need be shared; only the information that specifically affects the child in the school setting. Three examples of events that may impact the child include: 1) additional trauma; 2) transition to an out-of-home care placement (or from one placement to another); and 3) court hearings or decisions, such as a termination of parental rights or medication changes. If information is shared, all parties must comply with the applicable records and confidentiality laws.</p>	<p>Wis. Stat. §§ 48.78(2)(b) 118.125(2)(q)</p>
<p><b>51</b></p>	<p><b>May the child’s caseworker contact the teacher or other school staff person on a regular basis regarding a child living in out-of-home?</b></p> <p>Yes. Regular contact between the school staff and the child welfare agency caseworker is encouraged. While regular contact between the school and the caseworker may be desired, it may not occur as often as either would like. In such situations, either party should request a meeting when appropriate to update all concerned individuals on the current issues. Agencies are required to coordinate a child’s education as a part of the child’s permanency plan, which is part of the court order for all children in out-of-home care. Schools and staff should be open to visits from a caseworker on behalf of a child living in out-of-home care.</p> <p>When a caseworker contacts a child in the school, the district procedures should be closely followed. Local school district policies generally require all visitors to register at the office prior to any contact with a child or staff member.</p> <p>When contacting the student in school, caseworkers should consider the amount of time a child is removed from the classroom to minimize the disruption to a child’s education experience. At times, caseworkers may need to speak to a child during a child protective services investigation and may not always be able to accommodate the child’s school schedule. School districts should consider policies that protect the confidentiality of caseworkers to the greatest extent possible. Policies that require caseworkers to show their driver’s license or have their photo and full name printed on a visitor badge may compromise the safety of the caseworker. Schools may</p>	<p>Wis. Stat. §§ 48.78(2)(b) 118.125(2)(q)</p>

	consider allowing the use of an official Department of Human/Social Services (DHSS) or tribal badge in place of a license or visitor name badge.	
52	<p><b>Do school boards have the authority to disclose information from pupil records without written parental consent to child welfare agency caseworkers?</b></p> <p>Yes. The Uninterrupted Scholars Act (USA) amended the Family Educational Rights and Privacy Act (FERPA) to permit educational agencies and institutions to disclose a student’s education records, without parental consent, to a caseworker or other representative of a state or local child welfare agency or tribal organization authorized to access a student’s case plan “when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student.”</p> <p>Under Wisconsin statutes, school boards may release relevant information from pupil records when the information is necessary for an authorized caseworker to perform his or her functions. [DPI legal counsel has determined that an MOU under Wis. Stat. § 115.298(1) is not required due to the language at Wis. Stat. § 118.125(2)(q).] Additionally, school districts may disclose pupil records upon receipt of a court order or if the disclosure is otherwise authorized by statute.</p> <p>Child welfare agencies may only re-disclose education records to “an individual or entity engaged in addressing the student’s education needs” who is authorized by the child welfare agency to receive the records, if such re-disclosure is consistent with other state confidentiality laws. Although out-of-home care providers are engaged, in part, in addressing the student’s education needs, school districts do not have the authority to disclose pupil records directly to an out-of-home care provider without written parental consent or court order.</p>	Wis. Stat. §§ 115.298 118.125(2)(q)
53	<p><b>What information is most important for educators to have when a child transfers into a district?</b></p> <p>School staff need to know information about the child that will or could have an impact on the child’s ability to function and learn. The school should also be aware of any known responses of the child to trauma. There are three types of information that educators must have when a child transfers into a district, regardless of whether a child is living with his or her parents or in out-of-home care.</p> <ul style="list-style-type: none"> <li>• The school needs to know the child’s address and the responsible party for educational matters. If someone other than the parent is to make educational decisions for the child, the school should ensure that person has the explicit approval from the parent or from a court to serve in that capacity.</li> <li>• The school must have all the educational information documenting what school services the child needs. This information is forwarded to the school from the school in which the child may</li> </ul>	

	<p>have previously been enrolled. If the child welfare caseworker is aware of educational information and the child's records from the school of origin have not arrived, sharing the educational information as soon as possible is helpful for the student and the school. Child welfare workers are advised to share the <a href="#">Education Passport</a> form with school staff for the purpose of providing information to support the educational success of the student. Regardless of when records from the school of origin are available, the school district must immediately enroll a child residing in out-of-home care and provide educational services immediately. See Questions #33-36.</p> <ul style="list-style-type: none"> <li>• The school needs to have information that pertains to the student's safety and the safety of others. For instance, if the child has uncontrolled seizures and needs medication, or the student is liable to become physical or aggressive, or the child is depressed or potentially self-harming, that information must be shared with appropriate school staff. In addition, the school should be notified if there are any contact restrictions or reasons to be concerned about persons having contact with the child at the school (e.g., No Contact Orders or restricted Family Interaction Plans).</li> </ul>	
54	<p><b>What information may child welfare agencies share with school districts?</b></p> <p>Under state statutes, information from a child's case record, except as otherwise provided by law, may be shared on a confidential basis with school officials. Public schools must keep the information confidential pursuant to Wis. Stat. § 118.125. Private schools must keep this information confidential in the same manner pursuant to Wis. Stat. §§ 48.78(2)(b) and 938.78(2)(b).</p> <p>Information that may be subject to greater confidentiality requirements includes but is not limited to: child protective services (CPS) information unless it is necessary for a governmental entity, such as a public school, to protect children from abuse or neglect; information given to a mandated reporter regarding action taken in response to the CPS report to protect a child; medical information, mental health information, and substance abuse evaluation or treatment information. Agencies should consult with legal advisors regarding the release of particular types of information.</p>	<p>Wis. Stat. §§ 48.78 118.125 938.396 938.78</p>
55	<p><b>How should a school provide general communication to parents and foster parents of a child in out-of-home care (e.g., the child does something negative or positive, the child is a victim of bullying, etc.)</b></p> <p>In general, parents retain legal custody when a child is in out-of-home care and generally have the right to make educational decisions. As such, parents should generally be contacted by the school for day-to-day events involving their children.</p>	<p>Wis. Stat. §§ 115.298(2)(a) 118.125(1)(d) and (2)(e)</p>

	<p>Schools are restricted from sharing pupil record information with a child’s foster parent or other out-of-home care provider without written authorization from a parent or a court order granting this access. However, in order to facilitate such sharing, which is most often in the best interest of the child, the child’s caseworker should obtain written permission from the parent to share this information under Wis. Stat. § 118.125(2)(e). There are cases where it may be in the best interest of the student for the out-of-home care provider to have access to pupil records, even when parental consent is not possible to obtain. State law allows for the school to share relevant pupil records with a child’s caseworker without parental consent under Wis. Stat. § 118.125(2)(q). The caseworker in this situation is permitted to re-disclose relevant pupil records to the foster parent or other out-of-home care provider.</p>	
<p><b>K. Decision-Making Authority: Educational Decisions</b></p>		
<p><b>56</b></p>	<p><b>What types of decisions related to educational programming for the child do the parents retain the right to make?</b></p> <p>Unless the court restricts parental rights, nothing changes with regard to parental involvement when a child enters out-of-home care. Efforts should be made to involve the parents in all educational decisions.</p> <p>If the court removes that authority from the parent (e.g., through a termination of parental rights or the appointment of a guardian), the child welfare agency must inform the school of that change. The school should then involve a person identified by the court which may, in certain situations, be an appointed surrogate parent, for the purpose of educational decision-making.</p>	
<p><b>57</b></p>	<p><b>What types of educational decisions do out-of-home care providers have the right to make?</b></p> <p>The reasonable and prudent parent standard gives the out-of-home care provider the ability to make decisions that ensure the child has regular opportunities to engage in age- and developmentally-appropriate activities, such as giving permission for a student to participate in sports, field trips, and extracurricular activities. This standard does not give the out-of-home care provider the ability to authorize or participate in special education programming without written parental or school consent, unless the out-of-home care provider has specific authorization to act as a parent or surrogate parent. It also does not give the out-of-home care provider the right to access pupil records directly from the school without written parental consent.</p>	<p>Wis. Stat. §§ 48.02(14r) and 118.125(2)</p>



58	<p><b>Who has the legal authority to grant written consent to evaluate a child for a suspected disability, to initiate special education and related services, or to consent to a reevaluation?</b></p> <p>The child's parent must consent to evaluate a child for a suspected disability, to initiate special education and related services, or to reevaluate a child with a disability. For the purposes of special education, “parent” includes all the people listed in Wis. Stat. § 115.76(12). All notices relating to these processes are sent to the parent, the person acting as a parent of a child, as defined in Wis. Stat. § 115.76(13), or the surrogate parent appointed under Wis. Stat. § 115.792(1)(a)2. A foster parent or other out-of-home care provider does not have the legal authority to provide written consent, unless the LEA has determined that the foster parent is a parent under Wis. Stat. § 115.76(12)(a)10., or the LEA has designated the foster parent to act as a surrogate parent for education purposes.</p>	<p>Wis. Stat. §§ 115.76(12) and (13) 115.792(1)(a)</p>
59	<p><b>What should school staff do when there is a conflict between the out-of-home care provider and the parent?</b></p> <p>Depending upon any court orders involved, the authority to make educational decisions for the child may be with the parent or someone other than the parent. However, the parent generally retains the right to make educational decisions on behalf of the child. Conflicts between out-of-home care providers and parents should be brought to the attention of the child’s caseworker. The child’s caseworker and the district should work together to determine a joint course of action. If the decision involves a school mandate, the child welfare agency may be enlisted to support the district's decision.</p> <p>The school district and the child welfare agency should involve their respective Points of Contact to assure that attention is paid to these issues from a systemic perspective.</p>	
60	<p><b>Who is a “person acting as a parent of a child”?</b></p> <p>“Person acting as a parent of a child” means a relative of the child or a private individual allowed to act as a parent of the child by the child’s biological or adoptive parents or guardian, and includes the child’s grandparent, neighbor, friend, or a private individual caring for the child with the explicit or tacit approval of the child’s biological or adoptive parents or guardian.</p> <p>“Person acting as a parent of a child” does not include any person who receives public funds to care for the child, if the funds exceed the cost of the child’s care. Generally, a foster parent cannot serve as a “person acting as a parent of a child” for the purpose of parental consent for special education.</p>	<p>Wis. Stat. § 115.76(13)</p>

61	<p><b>When can a foster parent be considered a parent for special education purposes?</b></p> <p>Under certain circumstances, the LEA may determine that a foster parent is a parent for special education purposes. The LEA may determine that a foster parent is a parent for special education purposes if:</p> <ul style="list-style-type: none"> <li>• the right and responsibility of all the persons specified in Wis. Stat. § 115.76(12)(a)1.-5. to make educational decisions concerning a child have been extinguished by termination of parental rights, by transfer of guardianship or legal custody or by other court order;</li> <li>• the foster parent has an ongoing, long-term parental relationship with the child;</li> <li>• the person is willing to make the educational decisions that are required of a parent under special education law; and</li> <li>• the foster parent has no interests that would conflict with the interests of the child.</li> </ul> <p>A form entitled “Authorization for Foster Parent to Act as a Parent for the Purpose of Special Education” can be found at <a href="http://sped.dpi.wi.gov/sped_form_int">http://sped.dpi.wi.gov/sped_form_int</a>. The DPI recommends the LEA obtain a copy of the court order extinguishing the rights of the child’s parents prior to designating the foster parent as “a person acting as a parent of a child.” An otherwise qualified foster parent may also serve as the child’s “surrogate parent” when appointment of a “surrogate parent” is required.</p>	Wis. Stat. § 115.76(12)(a)
62	<p><b>May a biological parent object to a decision made by an IEP team that did not include the biological parent, but included another person considered a parent under Wis. Stat. § 115.76(12)?</b></p> <p>Yes. As long as the parental rights have not been terminated by a court order, a biological or adoptive parent or guardian may assert parental rights under special education law at any time.</p>	
63	<p><b>What is a “surrogate parent” and when is a “surrogate parent” assigned?</b></p> <p>A “surrogate parent” is a person assigned by the LEA to represent a child with a disability in all matters relating to the provision of special education and related services. The surrogate parent may not be an employee of the DPI, the LEA, or any other agency that is involved in the education or care of the child. LEAs must establish and maintain procedures to ensure that the child’s rights are protected by assigning a surrogate parent whenever:</p> <ul style="list-style-type: none"> <li>• the child’s parents are not known;</li> <li>• the LEA cannot, after reasonable efforts, locate the child’s parents; or</li> <li>• the child is a ward of the state. [Note: For a child who is a ward of the state, a judge overseeing the child’s care may appoint a surrogate for the child’s parents if the surrogate meets the requirements.]</li> </ul>	Wis. Stat. § 115.792(1)(a)2.

	<p>The LEA may not appoint a “surrogate parent” to circumvent the procedures for obtaining consent for special education evaluation or placement from uncooperative or non-responsive parents.</p> <p>The DPI recommends that the LEA obtain a copy of the court order relating to the custody of the child prior to denying a biological or adoptive parent the rights of a parent under special education law. A form for the “Assignment of a Surrogate Parent” can be found at <a href="http://sped.dpi.wi.gov/sped_form_int">http://sped.dpi.wi.gov/sped_form_int</a>.</p>	
<b>L. Decision-Making Authority: Medical Decisions</b>		
<b>64</b>	<p><b>Under what circumstances may school staff, including teachers, be made aware of medications a child in out-of-home care is taking?</b></p> <p>If the student is taking medications outside the school setting that may affect behavior or school performance, or which might preclude a student from certain activities, the decision to inform the school is left to the parent or guardian. For example, parents may want to consider informing the school of a student initiating a medication (e.g., Ritalin) for Attention Deficit Disorder (ADD) because of the potential impact on learning.</p> <p>When making a decision regarding notification of a school, parents and guardians should consider the benefits to the student of sharing this information, the risk of adverse effects that may affect learning or behavior, the student's right to privacy, and the need to know in case of a medical emergency.</p> <p>If the parent or guardian decides not to release this information to the appropriate school staff, and the child welfare agency believes that disclosure is necessary, the child welfare agency may seek a court order allowing the agency to provide the medical information to the school.</p>	
<b>65</b>	<p><b>Who has the authority to consent to routine medical care for the child?</b></p> <p>Generally, a parent or guardian retains the right to consent; however, a parent or guardian often delegates the authority to the out-of-home care provider to consent to routine medical care, or in some cases a court order may provide other authority to consent to routine medical care. This may include administration of over-the-counter drugs and some or all prescription drugs. If consent is delegated, it should be documented on a Medical Services Consent Form DCF-F-CFS0997 (<a href="https://dcf.wisconsin.gov/files/forms/pdf/0997.pdf">https://dcf.wisconsin.gov/files/forms/pdf/0997.pdf</a>) that is obtained by the child welfare agency.</p>	

	School districts should consult the child welfare agency regarding the authority of the out-of-home care provider to consent to routine medical care.	
66	<p><b>What steps need to be taken when school staff need to administer medication to a student during school hours?</b></p> <p>Under state law, the parent or guardian must provide written instructions and written consent to the school in order for the school to administer over-the-counter drugs. School administration of a prescription drug requires written instructions from a medical doctor and written consent from the parents or guardian.</p> <p>For more information regarding the administration of medication, please see the DPI document entitled “Administration of Drugs to Pupils.” This document is located here:  <a href="https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/sndrugscomplete.pdf">https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/sndrugscomplete.pdf</a></p>	Wis. Stat. § 118.29
<b>M. Special Education</b>		
67	<p><b>Where might one find basic resources for out-of-home care providers and child welfare agencies to better understand the special education process for children with disabilities—evaluation, initial provision of special education services, and reevaluation?</b></p> <p>There are extensive resources especially for parents located at <a href="http://sped.dpi.wi.gov">http://sped.dpi.wi.gov</a>. This webpage has links to several documents, including <i>An Introduction to Special Education</i>, that explain the Individualized Education Program (IEP) process. Parents and others can also access the DPI Special Education Topical Index at <a href="http://sped.dpi.wi.gov/sped_tm-spedctopics">http://sped.dpi.wi.gov/sped_tm-spedctopics</a>. Persons having specific questions regarding special education for children in out-of-home care may also contact the Department of Public Instruction (DPI) Special Education Team at (608) 266-1781.</p> <p>Other organizations that advocate for children with disabilities include the following:</p> <ul style="list-style-type: none"> <li>• Wisconsin Family Ties: <a href="http://www.wifamilyties.org/">http://www.wifamilyties.org/</a></li> <li>• Disability Rights Wisconsin: <a href="http://www.disabilityrightswi.org/">http://www.disabilityrightswi.org/</a></li> <li>• Kids Forward: <a href="http://kidsforward.net/">http://kidsforward.net/</a></li> </ul>	
<b>N. Discipline</b>		
69	<b>What kind of educational services are available to students who have been expelled from school?</b>	

Children in out-of-home care are expelled at a substantially higher rate than other students. When a student is expelled from a Wisconsin public school, other school districts are not required to provide educational services for the period of the expulsion, unless the student has an IEP. School districts may elect to provide educational services to expelled students. However, decisions regarding the types of services that may be provided, the frequency of those services, and who provides those services are at the discretion of the school district. If the school district chooses not to provide educational services, then the parent is responsible for finding or providing educational services to the student. Information for parents of expelled students is available at <http://sspw.dpi.wi.gov/files/sspw/pdf/expulbro.pdf>.

Child welfare agencies are required by federal law to ensure that all children living in foster care are enrolled and attend a full-time educational program. Even when a child is expelled from public schools, children living in foster care are required to participate in a full-time educational program. The child's family, foster family, and ultimately the child welfare agency are responsible for ensuring the continued educational programming for these children. Since child welfare agency staff are typically not experts in educational programming, the school district may help the child welfare agency to fulfill its educational responsibility to the child by assisting the child's family, foster family, and child welfare agency in making alternative arrangements for the child's educational programming for the period of time the youth is expelled from public schools.

Virtual schools are an alternative for students who have been expelled, as they allow the student to continue in his or her course of study, while complying with the expulsion order to avoid school buildings and grounds. More information about virtual schools can be found at [http://imt.dpi.wi.gov/imt\\_onlinevir](http://imt.dpi.wi.gov/imt_onlinevir).

For more information about advocating for a child in out-of-home care in the school setting see:

<http://wifostercareandadoption.org/Reading-Room/Tip-Sheets/While-Your-Child-is-In-School/Fostering-a-Child-with-an-IEP>

<http://wifostercareandadoption.org/Portals/fcarc/TipSheets/School/AchieveSchoolSuccess.pdf?ver=2016-05-16-143020-887>