

# Educational Stability for Students in Out-of-Home Care

Students placed in Out-of-Home Care often experience educational disruptions that can impact their academic experiences and outcomes. The Every Student Succeeds Act (ESSA) requires that Local Education Agencies (LEAs) and Child Welfare Agencies (CWAs) collaborate to implement policies and practices that minimize those disruptions and preserve students' opportunities for improved well-being and success in school.

## Required Elements under ESSA for Out-of-Home Care



**Collaboration** LEAs and CWAs must work in partnership to facilitate the educational stability of students placed in out-of-home care. Ongoing communication and joint decision-making are key to helping ensure educational stability and school success.



**School of Origin** To ensure educational stability, students placed in out-of-home care are presumed to remain in their school of origin (the school they were enrolled or most recently enrolled in at the time of placement).



**Transportation** Once a student is placed, transportation must be immediately provided, arranged, and funded to the school of origin for the duration of the student's placement. LEAs should collaborate with the CWA to develop agreed upon procedures to ensure transportation.



**Best Interest Determination** If there is consideration that it is not in the student's best interest to remain in the school of origin, the LEAs and CWA must conduct a best interest determination review.



**Immediate Enrollment** If it is determined to be in the best interest of a student placed in out-of-home care to enroll in their resident school, the LEA will immediately enroll the student even without documents normally required for enrollment.



**Transfer of Records** If the student changes to the school of residence, that school must immediately request the transfer of academic and other records from the school of origin.

*The Every Student Succeeds Act of 2015,  
Sections 1005 and 1006*

# Federal Law and Guidance

## Foster Care Provisions under the Elementary and Secondary Education Act (ESEA) as amended by ESSA

### 20 U.S.C. § 6311(g)(1)(E) [ESEA Section 1111(g)(1)(E)]

[Each State plan shall describe] “the steps a State educational agency will take to ensure collaboration with the State agency responsible for administering the State plans under parts B and E of Title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) to ensure the educational stability of children in foster care, including assurances that—

- (i) any such child enrolls or remains in such child’s school of origin, unless a determination is made that it is not in such child’s best interest to attend the school of origin, which decision shall be based on all factors relating to the child’s best interest, including consideration of the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;
- (ii) when a determination is made that it is not in such child’s best interest to remain in the school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment; [and]
- (iii) the enrolling school shall immediately contact the school last attended by any such child to obtain relevant academic and other records

### 20 U.S.C. § 6312(c)(5) [ESEA Section 1112(c)(5) ]

(c) ASSURANCES.—Each local educational agency plan shall provide assurances that the local educational agency will—

(5) collaborate with the State or local child welfare agency to—

- (A) designate a point of contact if the corresponding child welfare agency notifies the local educational agency, in writing, that the agency has designated an employee to serve as a point of contact for the local educational agency; and
- (B) by not later than 1 year after the date of enactment of the Every Student Succeeds Act, develop and implement clear written procedures governing how transportation to maintain children in foster care in their school of origin when in their best interest will be provided, arranged, and funded for the duration of the time in foster care, which procedures shall—
  - (i) ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with section 475(4)(A) of the Social Security Act (42 U.S.C. 675(4)(A)); and
  - (ii) ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the local educational agency will provide transportation to the school of origin if—
    - (I) the local child welfare agency agrees to reimburse the local educational agency for the cost of such transportation;
    - (II) the local educational agency agrees to pay for the cost of such transportation; or
    - (III) the local educational agency and the local child welfare agency agree to share the cost of such transportation.

## Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care (June 23, 2016)

<http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>

Joint federal guidance from the U.S. Department of Education and U.S. Department of Health and Human Services

## Fostering Connections to Success and Increasing Adoptions Act of 2008: Administration for Children and Families

**Program Instruction** <https://www.acf.hhs.gov/sites/default/files/cb/pi1011.pdf>

Requires that the child welfare agency: ensure the child is enrolled in school; include a plan for educational stability in the child’s case plan that takes educational stability into account when making placement decisions; and coordinate with the education agency to maintain a child in their school of origin when in their best interest.

## Uninterrupted Scholars Act (PL 112-278) <http://uscode.house.gov/statutes/pl/112/278.pdf>

Permits disclosure of pupil records without consent to child welfare caseworkers if necessary; also permits disclosure without consent by court order for specified types of judicial proceedings.

# Wisconsin State Law and Guidance

**Wis. Stat. § 48.64(1r)** School district must be notified when a student is placed in out-of-home care.

**Wis. Stat. § 118.125(4)** Pupil records must be transferred between schools no later than the next working day.

**Wis. Stat. § 118.125(2)(q)** Circumstances under which pupil records may be shared with child welfare caseworkers.

**Wis. Stat. §§ 48.38(5)(b) and 938.38(5)(b); and Wis. Stat. §§ 48.38(5m)(b) and 938.38(5m)(b)** School must receive notice when a hearing on, or review of, a student’s permanency plan is scheduled.

**Wis. Stat. §§ 48.38(5)(bm)1 and 938.38(5)(bm)1; and Wis. Stat. §§ 48.38(5m)(c)1 and 938.38(5m)(c)1** School may have an opportunity to submit written comment for a permanency plan review or hearing.

**Wis. Stat. §§ 48.38(4)(dg) and 48.38(4)(dm) and Wis. Stat. §§ 938.38(4)(dg) and 938.38(4)(dm)** Educational information must be included in a child’s permanency plan; and certain documentation is required to ensure a change in school is in the best interest of the child if the child is going to enroll in a new school as a result of the placement into out-of-home care.

## Department of Public Instruction: Educational Stability for Students Placed in Out-of-Home Care

<https://dpi.wi.gov/foster-care>

## Department of Children and Families: Supporting Educational Stability for Students Placed in Out-of-Home Care

<https://dcf.wisconsin.gov/cwportal/essa>