


Policy Number:	SSA/CW #23-04
Policy Title:	Education Stability
Release Date:	November 15, 2023
Effective Date:	December 15, 2023
Approved By:	Stephen Liggett-Creel, LCSW-C Acting Executive Director Social Services Administration 
Revision Date(s):	N/A
Supersedes:	SSA/CW #18-8 Educational Stability, SSA/CW #09-19 School Enrollment and Decision-making for Children in State-supervised Care, and SSA/CW #16-19 Type III Educational Program
Originating Office:	Placement and Permanency
Required Actions:	Make and document the Best Interest Determination about schooling for a child in care who is moving to a new placement; Take the necessary steps to have the child enrolled in a new school or to remain in the original school. Ensure that arrangements are made for transporting the child to school.
Key Words:	Education Stability, School enrollment, Best Interest Determination, Educational decision making.
Related Federal Law	Every Student Succeeds Act, 20 USC.§ 6312(c)(5), Fostering Connections to Success and Increasing Adoptions Act, 20 U.S.C. §6312(c)(5) and Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (FERPA)
Related State Laws	Md. Code, Educ. § 8-501-507
COMAR	COMAR 07.02.11.12
Title IV-E State Plan Implications?	Yes



PURPOSE AND SUMMARY

This policy establishes guidelines to ensure the educational stability of children in the care and custody of a local department, and to clarify the responsibilities of the LDSS and its interaction with the local education agency (LEA) concerning school enrollment.

The policy contains measures:

- To ensure that children in out-of-home placement who continue to attend their schools of origin following their best interest determination have appropriate transportation plans.
- To ensure that the LDSS is adhering to the permanency case plan requirements **each time** a child enters an out-of-home placement or moves to a new placement.
- To ensure that best interests determinations are made within 5 business days of every new or change in placement.
- To ensure proper documentation of a child's educational information and progress is entered into the electronic system of record.

RELATED LAWS AND REGULATIONS

Fostering Connections Act

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections) requires child welfare agencies to develop a plan for ensuring the educational stability of children in foster care to include collaboration with LEAs to ensure that a child entering foster care remains in the school of origin if it is in the child's best interest.¹ Fostering Connections also provides that, if it is in the best interest of the child to transfer from the school of origin, the child must be immediately enrolled in a local school serving the out-of-home placement, even if the required documentation is not readily available.

Every Student Succeeds Act of 2015

Every Student Succeeds Act (ESSA) amended Title I, Part A Elementary and Secondary Education Act - No Child Left Behind Act of 2002.² ESSA promotes stability and success for students in foster care by allowing them to remain in their schools of origin if in their best interests. Under ESSA, the LDSS is responsible for determining whether it is in the best interest of a child in an out-of-home placement to remain in a school of origin or to transfer to a new school. ESSA also requires that the LDSS collaborate with the local education agency (LEA) to develop and implement clear written transportation procedures that include logistics for transporting a child and transportation funding. ESSA ensures that children in **any** out-of-home placement are treated fairly and have school stability.

Family Educational Rights and Privacy Act

Family Educational Rights and Privacy Act (FERPA),³ as modified by the Uninterrupted Scholars Act,⁴ authorizes LDSS workers to access a child's education records, whom they are legally responsible for, without parental consent.

¹ [42 U.S.C. § 675](#)

² [Pub. L. No. 114-95 \(2015\)](#)

³ [20 U.S.C. § 1232g; 34 CFR Part 99](#)

⁴ [Pub. L. 112-278 \(2013\)](#)

Child & Family Services Improvement and Innovation Act

Pursuant to the Child and Family Services Improvement and Innovation Act 34, the State is required to meet the educational stability in the foster care case plan requirement at **each** placement change and not only at the initial placement.⁵

Individuals with Disabilities Education Act (IDEA)

IDEA is the nation's federal special education law that ensures public schools serve the educational needs of students with disabilities.⁶ IDEA requires that schools provide special education services to eligible students as outlined in a student's Individualized Education Program (IEP). IDEA also provides very specific requirements to guarantee a free appropriate public education (FAPE) for students with disabilities in the least restrictive environment (LRE).

COMAR

Under Maryland regulation, the LDSS must ensure school stability for children who are placed in the care and custody of an LDSS and in an out-of-home placement by determining whether it is in the best interests of the child to continue to attend the school the child last attended prior to the most recent change in placement.⁷

DEFINITIONS

Academic School Year - The period from the first day of school in August or September to the last day of school in June.

Additional Transportation Costs - The difference between the transportation expenses for attending the school serving the out-of-home placement and the school of origin.

Best Interests Determination (BID) - A local department of social services' decision on whether a child should remain in the school of origin or transfer to a new school.

Enroll - Taking the formal steps to allow a child to attend classes and participate fully in school activities in a new school.

Formal Kinship Care - When a child is placed in out-of-home care with a relative caregiver by blood or marriage or fictive kin caregiver with the approval of a local department of social services.

Individualized Education Plan (IEP)- a written document and process outlining the who, what, when, why, where and how of instruction and related services that are to be provided to a student with disabilities.

LEA Foster Care Liaison and LDSS Point of Contact - staff designated to collaborate between LEAs and the LDSS regarding students in foster care.

⁵ [Pub. L. 112-34 \(2011\)](#)

⁶ [20 U.S.C. § 1400 et. seq.](#)

⁷ [COMAR 07.02.11.12](#)

Local department of social service (LDSS) - any of the 24 local departments of social services in the State.

Local education agency (LEA) - Any of the 24 local public school systems in the State.

Local zoned school - School serving the catchment area of the student's out-of-home placement.

Out-of-home care - 24-hour substitute care for a child in the care and custody of a local department of social services in a placement, including but not limited to a resource home, home of a relative or formal kinship care provider, a residential facility, and a pre-adoptive home.

Out-of-home placement - Location where LDSS places the child when in care.

Parent - A child's natural parents; A child's adoptive parents; A guardian; A resource parent or relative with whom a child lives if they have been granted limited guardianship for educational decision-making purposes by the court that has placed the child in foster care;

Parent Surrogate - A person who is appointed by the local school superintendent to act in place of a parent of a child in the educational decision-making process.

School of origin - The school the student attended prior to placement or change of placement in out-of-home care or the school in which the child was last enrolled. School of origin also includes feeder schools the student has not yet attended but was zoned to attend public prekindergarten and public charter schools.

PROCEDURES AND TIMEFRAMES

Interagency Agreement

In accordance with Every Student Succeeds Act (ESSA), every five years, SSA and MSDE will collaborate to update a template memorandum of understanding regarding basic procedures for the implementation of ESSA and outlining the roles and responsibilities of the parties that each LDSS and LEA approves and finalizes for implementation.

Responsibilities of the LDSS in School Enrollment of Students in Out-of-Home Placements:

1. The LDSS is responsible for immediately notifying, either orally or in writing, the Foster Care Liaisons of the LEAs at both the school of origin and the school serving the out-of-home placement that a child has entered care or changed placement.
2. Regardless of the time of year, within 5 business days of a new or change in placement the LDSS will hold the BID meeting to reach a consensus as to whether it is in the child's best interests to continue to attend the school last attended or to transfer schools.⁸ This determination should be documented in the child's electronic system of record and education records at the school. If a BID concludes without an agreement on enrollment, LDSS will decide which school the student will be enrolled in.

⁸ [Pub. L. No. 114-95](#) (2015); [COMAR 07.02.11.12A](#)

3. The worker or supervisor must complete the **Best Interests Determination Form, School Enrollment of Student in Out-of-Home Placement** in the electronic system of record and provide a copy to the child's school, parent, and any other individuals involved in the BID meeting.
4. LDSS will upload the form and any documents considered in the meeting into the electronic system of record.
5. The LDSS must ensure the child will continue to attend the school of origin until the LDSS makes its best interest determination and the LEA arranges transportation.

If a child is enrolled in a nonpublic school setting, the LDSS shall contact the LEA's Non-Public School Coordinator to inform them of a placement change and to explore whether a non-public school change needs to be initiated or transportation arranged. The best interest determination for a non-public school is based on the child's IEP requirements and is the responsibility of the LEA.

Completing the BID Form⁹

When making a BID, the LDSS must seek input from the LEA where the child's school of origin is located through the LEA Foster Care Liaison or other representative of the school of origin who knows the child and can provide input on their academic performance and behavior.¹⁰ The best interests meeting may occur through in-person meetings (such as an FTDM), phone calls, teleconferences, emails, or other electronic means.

The LDSS will invite the following individuals to collaborate in making the BID unless doing so would create an undue delay (beyond 5 business days) in school placement:

1. Parent;
2. Parent surrogate;
3. Legal guardian;
4. Child (where developmentally appropriate);
5. Child's attorney; and
6. Other individuals who can contribute information relevant to the determination (resource parents).

The participants in the BID meeting may consider any of the factors on the BID form to determine the child's best interest. These would include the value of continuity of instruction, length of anticipated stay in out-of-home care, social and emotional impact of transferring schools and the length of commute to the school of origin.

The LDSS may **not** consider the cost of transportation for the child to continue to attend the school of origin in determining the best interests of the child for school selection.

⁹ [COMAR 07.02.11.12B](#)

¹⁰ [COMAR 07.02.11.12B](#)

Upon completion of the best interests determination, the LDSS must notify the LEA of the school of origin **and** the LEA of the potential receiving school by providing a copy of the child's completed BID Form to the LEA Foster Care Liaisons or other LEA designee. LDSS shall upload the form and any relevant attachments considered in the meeting into the electronic system of record.

If it is in the Child's Best Interest to **Transfer** to a New School

If the LDSS determines that it is in a child's best interests to transfer schools, the LDSS must ensure that the child is immediately enrolled in the school serving the out-of-home placement even if the LDSS is still waiting for requested additional documentation.¹¹ The child does not need to be enrolled by the LDSS; a child may be enrolled by a parent, placement agency worker, resource parent, formal kinship care provider, residential child care program representative, or student (if 18 or older). To enroll the child in the school serving the child's out-of-home placement, the LDSS worker must provide:¹²

1. Documentation that the child is in out-of-home care, which may include:
 - (a) The parts of the most recent court order establishing legal custody **or** a letter on LDSS letterhead stating that the child is in out-of-home care; and
 - (b) A written statement of the address of the student's out-of-home placement. The statement may be in a letter on LDSS letterhead or can be in the form of a lease, utility bills, etc., and
2. Identification of the person who is authorized to enroll the student, including:
 - (a) Documentation identifying the person as an LDSS worker, or someone else authorized to enroll a child under COMAR 13A.08.07.03-1; and
 - (b) Photo identification.

The LDSS is ultimately responsible for ensuring enrollment in a new school. After the child is enrolled, the LDSS must provide any additional documentation the school requires (such as a birth certificate or immunization record) as soon as possible. The receiving school is responsible for ensuring that the school of origin provides the child's education records.¹³

If it is in the Child's Best Interests to **Remain** at the School Of Origin

As dictated by the memorandum of agreement between the LDSS and the LEA, when the LDSS gives the LEA of the school of origin the completed BID Form stating that the child will remain at that school, the LEA must arrange and document a plan for transporting the child from the out-of-home placement to the school, even if the placement is in a different LEA.^{14,15} The LEA will arrange and implement appropriate transportation within five business days of receiving the BID. The LDSS should work with the Foster Care Liaison to identify possible resources for transportation, including having a resource home provider or worker drive the child and being reimbursed for mileage.

If the LDSS determines that it is in a child's best interests to remain in the school of origin, the LDSS

¹¹ [Pub. L. No. 114-95](#) (2015)

¹² [COMAR 07.02.11.12C](#)

¹³ [COMAR 13a.08.07.03-2](#)

¹⁴ [Pub. L. No. 114-95](#) (2015)

¹⁵ [COMAR 13a.08.07.06](#)

must reimburse the LEA for any transportation costs associated with transporting the child to and from the school of origin, unless the LDSS takes responsibility for the transportation. The LDSS is responsible for transportation costs to the school of origin that exceed the cost of what the LEA would spend on transporting the youth to the locally zoned school. Before requesting these additional costs from the LDSS, an LEA will explore whether another program can fund the transportation, such as through the child's IEP or 504 Plan.

Transportation Plans

The LEA has the responsibility to develop a written transportation plan. The LDSS worker must evaluate the plan to ensure that it is appropriate for the child and enter the plan into the electronic system of record. If inappropriate, the LDSS will assume responsibility for transporting the child to the school of origin. While the LEA develops the child's transportation plan, the LDSS must continue to transport the child. If the LDSS does not receive the transportation plan within five business days, the worker should contact the LEA.

The LDSS should not assist in developing the transportation plan at the best interest determination meeting.

Obtaining Education Records and Information From The Local School System

In order to make informed decisions regarding the best interests of a child and to ensure the ongoing appropriateness of these decisions, workers must request access to relevant school records and document a child's educational information and progress in the electronic system of record.

Under FERPA, children in the care and custody of LDSS, particularly those in an out-of-home placement, have the right to access their own education records, including records of attendance, grades, school disciplinary actions, and medical records, where educationally relevant. Consequently, without consent of a parent or the student, LDSS also have the right to information in these records regarding enrollment, attendance, and performance.¹⁶ Receiving this information from the LEA supports ensuring that each student's educational needs are met and may improve their academic outcomes.

Specifically, the following individuals are authorized to receive copies of a child's educational record:¹⁷

1. The child's LDSS worker;
2. The child's worker from a private agency with whom the Social Services Administration contracts;
3. LDSS supervisors and managers;
4. In the case of a co-committed child, the worker from the co-committing agency; and
5. Other administrators with access to the case plan in accordance with State law for the purpose of providing care to an individual child.

To obtain a child's education record, the LDSS must provide documentation that it is responsible for

¹⁶ [Pub. L. 112-278](#)

¹⁷ [Pub. L. 112-278](#)

the care of the child. This documentation can be in the form of a court order or written notification on agency letterhead stating that the agency has legal custody or is otherwise legally responsible for the care and custody of the child. The LDSS may not redisclose these records unless the individuals or entities requesting the records are engaged in addressing the student's educational needs and are authorized by the LDSS to receive them.

Type III Educational Programs

The Type III Educational Program is a non-public general education program that was established as a means to provide a short-term transitional education program. Children in care who are placed into a diagnostic placement may attend a Type III Educational Program for up to 60 school days in a facility approved by the Maryland State Department of Education.¹⁸

Authority to make Educational Decisions Once a Child is Enrolled

Within 10 business days of enrollment, the LDSS worker must document and inform a child's school of who can make educational decisions for the child and whom the school should contact in the case of an emergency.¹⁹ They must provide contact information for both the primary decision-maker and a backup decision-maker. The LDSS will choose the decision-maker based on whether the child is receiving general or special education (as outlined below):

Types of Educational Decision-Making

There are two types of educational decision-making: (1) general education decision-making and (2) special education decision-making:

1. General education decisions are ones that do not involve special education services. These include completing field trip authorizations, attending parent-teacher conferences, signing report cards meeting with the guidance office, choosing academic programs and courses, career programs; authorizing testing, authorizing specific programs (such as sex education or armed forces recruiting), choosing a magnet or other non-zoned school, making school health-related decisions, responding to school discipline issues, and authorizing the child to participate in sports or other extracurricular activities. The following people are allowed to make general education decisions for a child in care:
 - a. Parents;
 - b. An LDSS worker or private child placement worker; and
 - c. A person living with and caring for the child such as a resource parent, kinship care provider, residential child care program representative, treatment foster care worker, or private child placement worker.
2. Special education decisions are those that relate to the provision of special education services, such as placement, identification of services, and evaluation. Only the following people can make special education decisions:
 - a. Parents, or
 - b. A special education-appointed parent surrogate.

A Parent Surrogate Must Make Special Education Decisions for the Child

If the LDSS believes that a child who is entering into placement may have special needs and has no record of a prior evaluation, the worker should notify the school and request an evaluation in writing. The LEA

¹⁸ [COMAR 13a.09.10.20](#)

¹⁹ [COMAR 13a.08.07.03-3](#)

must obtain parental consent before the initial evaluation and before providing special education and related services to a child for the first time. An LDSS worker may request a parent surrogate from the Superintendent of the LEA if the worker suspects that the child needs special education services and if the child's legal guardian is a public agency, the child's parents are deceased, or if the parent is unknown, unable, or unavailable to participate in the special education process.²⁰ If a parent and the LDSS disagree on whether the child requires special education services, the LDSS can work with the LEA to determine if the LEA can pursue the initial evaluation of the child by utilizing procedural safeguards, such as mediation or a due process complaint or if court involvement is necessary.

ALIGNMENT WITH PRACTICE MODEL AND DESIRED OUTCOMES

This policy is consistent with the Integrated Practice Model, as it incorporates the practice principles of family-centered, outcomes-driven, individualized, and strength-based services. It achieves this by involving families and children in best interests determination meetings, enabling children and families to make informed decisions regarding their education and special education services. The policy adheres to the core practices and an integrated approach in working with families, children, and Local Educational Agencies (LEAs), ensuring that children in out-of-home care receive the necessary support and services to effectively address their academic needs.

See related Integrated Practice Model (IPM) Practice Profiles below:

- ❖ [Engage \(Building Authentic Partnerships\) Practice Profile](#)
- ❖ [Individual and Family Planning Practice Profile](#)
- ❖ [Intervene Practice Profile](#)
- ❖ [Monitor and Adapt Practice Profile](#)

DOCUMENTATION

The LDSS will ensure that the electronic system of record contains current school information and the BID form no later than 5 business days from the date of the BID meeting.²¹ The worker will document all contact with the child's school in the electronic system of record.

The worker will upload applicable supporting documentation such as enrollment documents, letters to the school, report cards, attendance records, IEP/504 documents, progress reports, or any disciplinary records into the electronic system of record as soon as reasonably possible but no later than 30 calendar days after the end of a reporting period (i.e. semester, trimester, quarter).

²⁰ [COMAR 13A.13.01.13](#)

²¹ [42 U.S.C. § 675](#)

[FORMS AND ATTACHMENTS](#)

Education Stability Flow Chart
Best Interest Determination Form
Transportation Plan
School Letter Template
Practice Guidance

RELATED INFORMATION

[MSDE Fact Sheet 91: Foster Care School Enrollment](#)

[Foster Care Point of Contact](#)