

Bulletin

October 16, 2013

Minnesota Department of Human Services -- P.O. Box 64941 -- St. Paul, MN 55164-0941

OF INTEREST TO

- County and Tribal Directors
- Social Services Supervisors and Staff

Ensuring Educational Stability of Children in Foster Care

TOPIC

The Fostering Connections to Success and Increasing Adoptions Act of 2008 amends Titles IV B and IV E of the Social Security Act, to improve educational stability for children in foster care.

PURPOSE

To clarify agency responsibility for ensuring educational stability for children in foster care.

CONTACT

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ACTION/DUE DATE

Please read and implement.

EXPIRATION DATE

October 16, 2015

SIGNED

ERIN SULLIVAN SUTTON
Assistant Commissioner
Children and Family Services

Terminology Disclaimer

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language. Although outmoded and offensive terms might be found within this document, DHS doesn't endorse these terms.

Background

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) amended Titles IV-B and IV-E of the Social Security Act, adding section 475 (1) (G) to revise case plan requirements to improve educational stability for children in foster care.

The act requires that child welfare agencies provide a plan to ensure educational stability for foster children. This includes:

- Assurances that placement of a child in foster care takes into account the appropriateness of the current educational setting, and the proximity of the school in which a child is enrolled at the time of placement.
- Assurance that the state agency has coordinated with appropriate local educational agencies (as defined under section 9191 of the Elementary and Secondary Education Act of 1965) to ensure that a child remains in the school in which they are enrolled at the time of placement.
- If remaining in such school is not in the best interests of a child, assurances by the state child welfare agency and the local education agencies to provide immediate and appropriate enrollment in a new school, with all of a child's educational records provided to the school.
- The act expands the definition of "foster care maintenance payments" to include reasonable travel for a child to remain in the school in which they were enrolled at the time of placement. A Title IV-E agency has the discretion to determine what is considered reasonable travel.

Educational stability language is further clarified in the Child and Family Services Improvement and Innovation Act (Public Law 112-34), which amended Titles IV-B and IV-E of the Social Security Act, section 475 (1) (G), stating that the provisions for improving educational stability apply to the initial foster care placement and each subsequent placement change. The amendment clarifies that a child remain in the same school in which they were enrolled prior to placement, *and* upon a child's move from one placement to another, unless remaining in the same school is not in their best interest.

Placement Considerations

Under Minnesota Statutes, section 260C.212, when a child enters foster care or changes placement, it is the county child welfare agency's responsibility to make efforts to promote a child's educational stability by ensuring that they remain in their school of origin, unless it is determined not to be in their best interest. If it is not in a child's best interest to remain in the same school, the child welfare agency is responsible for ensuring they are immediately and appropriately enrolled in a new school.

When making placement decisions, the agency should identify, when possible, an appropriate foster family in a child's school district. If there are no placement options available in a child's

school district, or if a child is placed outside the district as part of a best interest decision, the placement decision should take into consideration the ability of the potential foster parent to provide transportation to a child's school. If a foster family is unable to provide transportation to a child's school of origin, the child welfare agency should partner with the local school district to ensure that transportation is provided.

It is recommended that county agencies identify school districts in areas that have a high concentration of children and youth entering foster care and engage in targeted efforts to recruit foster families who live in these areas. This targeted recruitment effort may result in fewer school changes for youth entering care and further, promote the best practice of keeping children and youth in their communities when placed in out-of-home care.

Other placement considerations may include best interest factors such as:

- Placement with a relative
- A child's preference to change schools or remain in the same school
- The safety of the child in the current school
- The appropriateness of educational programs in the current school
- Special education considerations
- Preference of a child's parent
- Expected length of time in a placement
- How a school transfer may affect the child emotionally
- Length of commute to the school of origin.

The cost of school transportation should *not* be a factor in determining the best interest of the child for school selection purposes (see ACYF-CB-PI-10-11, section E, <http://www.acf.hhs.gov/sites/default/files/cb/pi1011.pdf>).

If remaining in the school of origin proves to be in a child's best interest, county or tribal child welfare agencies should communicate with the local school district to determine responsibility for providing transportation. This includes whether transportation services are covered under enrollment options, McKinney-Vento or Individuals with Disabilities in Education Act (IDEA), and explore the best options for meeting transportation needs of a student for the purposes of maintaining educational stability.

It is recommended that child welfare agencies designate a staff person to serve as an educational stability liaison. This staff person:

- Fields questions related to educational stability
- Assists in ensuring transportation is provided to school of origin
- Communicates with the local school district or the homeless liaison (when applicable)
- Helps facilitate a smooth transition when a child changes schools.

Transportation Considerations

In certain cases, the local school district may be responsible for arranging and funding transportation for children in foster care, such as when a child is eligible for assistance through either the McKinney-Vento Homeless Assistance Act or the Individuals with Disabilities in Education Act.

McKinney-Vento Homeless Assistance Act

The McKinney-Vento Homeless Assistance Act ensures school stability for children and youth who lack a fixed, regular and adequate nighttime residence. The law states it is the school district's duty to provide, or arrange and determine who will fund, transportation for homeless students to remain in their school of origin whenever transportation is feasible. Children in foster care who are eligible for McKinney-Vento include students who are either initially placed in the foster system or between placements, and are awaiting a court hearing to determine foster care placement. Students in emergency or transitional shelters who have run away from an out-of-home placement, considered unaccompanied homeless youth, may also be McKinney-Vento eligible.

Every public school district is required to appoint a McKinney-Vento liaison whose responsibility is to determine eligibility for educational rights of children experiencing homelessness, and ensuring identification of children in foster care who are eligible for McKinney-Vento educational rights.

Students initially placed in the foster care system, or between foster placements in Minnesota, may meet the McKinney -Vento definition of homeless until the required court hearings have been completed and a student is formally placed into foster care. The school district homeless liaison determines if a student meets the homeless definition. If a student is determined eligible for McKinney-Vento, the homeless designation stays with them for the remainder of the school year. This designation is reassessed at the beginning of the next school year. If placed in a foster home or returned home, they are no longer McKinney-Vento eligible. If disagreement on eligibility occurs, the McKinney-Vento dispute procedure is followed. To dispute a decision, contact the local education agency's McKinney-Vento liaison (link below).

County or tribal child welfare agencies should work with a school district's homeless liaison on transportation options. Transportation arrangements should be made promptly to ensure that a child does not miss any school. Also, caseworkers should inform schools of pending changes to a child's home placement so that schools can adjust transportation arrangements. For more information on McKinney-Vento, including a list of the homeless liaisons in school districts and charter schools, please access the following link:

<http://education.state.mn.us/MDE/SchSup/ESEA/HomelessMcKinneyVento/index.html>

McKinney-Vento Case Examples

A 14-year-old boy has been in the same foster home for several years. Without warning, the child's caseworker receives notification from the foster family that this will be the last day they can have the boy in their home. With no alternative placement homes available at such short notice, the caseworker places the boy in a temporary shelter until another placement can be found. In this case, the boy would be eligible for McKinney-Vento for the rest of the school year. Eligibility and provision of services, including transportation to the school of origin, would be determined by the homeless liaison at the local school district.

A child is in respite care. Although the child is temporarily away from their usual residence, the child is not eligible for McKinney-Vento because they are not awaiting placement and not considered homeless.

A family has recently been evicted from their home, and now stays in a home shared with people who sell illegal drugs while they look for stable housing. Law enforcement removed the child from the family and placed him in foster care due to safety issues and determinations of neglect. As the family awaits a court hearing, and is presently considered homeless, the child is considered homeless under McKinney-Vento and is eligible for educational provisions.

Individuals with Disabilities in Education Act (IDEA)

Through the Individuals with Disabilities in Education Act, children who are eligible for special education services and have transportation needs written into their Individualized Education Plan (IEP) as a related service can generally receive transportation funding through the school district. Stipulations are as follows:

- If a special education student is placed into a foster home outside the district of origin and enrolls back to the school of origin, the enrolling district would be responsible for providing the education services put forth in the IEP. This may mean that the district would provide transportation outside the district boundaries if an IEP indicated the related service of transportation based on the disability of a child.
- If a special education student is placed into a foster home outside the district of origin and enrolls back to the school of origin, and does not have transportation related services in their IEP, and is able to ride a regular bus, the district would only be responsible for the miles within district boundaries. The county or tribal child welfare agency would be responsible for transportation outside the district boundary.
- If a school district places a student into another school district or program, the placing district would be responsible for transportation.

When a child is placed in a home outside the district in which they were enrolled

When a child is placed in a foster home, the district in which the foster home is located is responsible for education. If a student is placed outside the district in which they were enrolled at the time of placement, a student would need to open enroll back to the school of origin. Open enrollment laws would apply (Minnesota Statutes, section 124D.03).

The enrolling district is required to provide transportation within the attendance area of the school that a student attends. Minnesota Statutes, section 123B.92, subdivision. 3, provides that a district that enrolls nonresident pupils in programs under sections 124D.03, 124D.06, 124D.07, 124D.08, 123A.05 to 123A.08, and 124D.68, must provide authorized transportation to the pupil within the attendance area for the school that the pupil attends. The resident district need not provide or pay for transportation between the pupil's residence and the district's border. This means that, although the district is not responsible to provide transportation from the foster home to the school, it would be responsible for providing transportation from the district's *border* to the school.

Review the document titled "Transportation of Public School Enrollment Options Students" at <http://education.state.mn.us/MDE/SchSup/SchFin/Trans/Res/index.html> for more information.

Title IV-E Claiming for Transportation Costs

When it is determined that a county or tribal agency is responsible for covering the cost of transportation, it is authorized to claim Title IV-E reimbursement for transportation costs for reasonable travel to and from a child's school. Transportation costs can also be reimbursed through Title IV-E to support a child's involvement in school-related activities. These costs can be reimbursed for Title IV-E eligible children in the following ways by:

- Including transportation in a child's Difficulty of Care (DOC) assessment as an increase to the DOC level of care
- Making a separate payment for a child's transportation costs to foster parents through mileage reimbursement or gas cards
- Making separate payments to another provider, such as the local school district or third party provider
- Paying for public transportation through the use of bus cards.

A Title IV-E service type has been added to the Title IV-E Abstract in the Social Services Information System (SSIS) to submit child-specific claims for educational transportation only. A new Special Cost code for education-related transportation was added to SSIS Version 5.4 to Service Arrangements and Payments. This Special Cost code ensures that education-related transportation can be claimed when the Title IV-E Abstract Report is enhanced to accommodate education-related transportation business rules. Counties are able to claim education-related transportation costs for the current quarter, as well as the previous four quarters.

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More information on claiming Title IV-E reimbursement is found in DHS bulletin #12-32-05, "Title IV-E Foster Care Abstract and Claiming Process," March 1, 2012.

Americans with Disabilities Act (ADA) Advisory

This information is available in alternative formats to individuals with disabilities by calling 651- 431-4670 (voice) or by using your preferred relay service. For additional assistance with legal rights and protections for equal access to human services programs, contact your agency's ADA coordinator.