Virginia Department of Education
and
Virginia Department of Social Services

Fostering Connections: Joint Guidance for School Stability of Children In Foster Care

Revised August 2013

VIRGINIA DEPARTMENT OF
EDUCATION

VIRGINIA DEPARTMENT OF
SOCIAL SERVICES

A. Introduction

Children and youth in out-of-home care average one to two residential placement changes per year, a rate of mobility greater than their peers not in foster care. A national study of 1,087 alumni youth in foster care found that youth who had one fewer placement change per year (than other children in foster care) were almost twice as likely to graduate from high school before leaving care (Pecora, 2003). For children and youth in foster care, a change in home placement frequently results in a change in school placement. The educational impact of every school change is significant. Each time students enter new schools they must adjust to different curricula, different expectations, new friends, and new teachers. These changes may create several negative outcomes for students placed in foster care:

- They may make less academic progress, falling behind their peers.
- They may experience less opportunity for academic achievement, increasing the risk for dropping out of school.
- They may face challenges in developing and sustaining supportive relationships with teachers and peers.

Keeping children in the same school:

- provides continuity in education;
- maintains important relationships at school;
- provides stability during a traumatic time for the children; and
- improves educational and life outcomes.

This joint guidance document represents collaboration between the Virginia Department of Education (VDOE) and the Virginia Department of Social Services (VDSS) to implement the provisions of the *Fostering Connections to Success and Increasing Adoptions Act of 2008* (Fostering Connections) to ensure school stability for children in foster care. This guidance applies to initial and subsequent residence placements while children are in foster care. Residence refers to foster care placement.

The guidance applies to all children in foster care, regardless of whether they enter foster care through:

- court commitments (e.g., abuse, neglect);
- voluntary entrustment agreements when the parents request the Local Department of Social Services (LDSS) to assume custody of the children temporarily or permanently; or
- voluntary noncustodial agreements with the parents for children to receive foster care services while the parents retain legal custody and LDSS assumes placement, care, and case management responsibilities.

B. Federal and State Statutory Requirements

The federal *Fostering Connections to Success and Increasing Adoptions Act of 2008* (P.L. 110-351, Fostering Connections Act) requires child welfare agencies to provide:

> *(i)assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and*
>
> *(ii)(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or (II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.*

The *Code of Virginia* reinforces Fostering Connections in terms of educational stability. Section 22.1-3.4 B states:

> *The sending and receiving school divisions shall cooperate in facilitating the enrollment of any child placed in foster care across jurisdictional lines for the purpose of enhancing continuity of instruction. The child shall be allowed to continue to attend the school in which he was enrolled prior to the most recent foster care placement, upon the joint determination of the placing social services agency and the local school division that such attendance is in the best interest of the child.*

Section 22.1-3.4 D states:

> *"Receiving school division" means the school division in which the residence of the student's foster care placement is located. "Sending school division" means the school division in which the student last attended school.*

Section 63.2-900.3 of the *Code*, as amended by the 2012 General Assembly, states:

> *When placing a child of school age in a foster care placement, as defined in § 63.2-100, the local social services agency making such placement shall, in writing, determine jointly with the local school division whether it is in the child's best interests to remain enrolled at the school in which he was enrolled prior to the most recent foster care placement, pursuant to § 22.1-3.4.*

C. Interagency Collaboration

Fostering Connections clearly outlines child welfare agencies' responsibilities for the students in foster care. Fostering Connections requires child welfare agencies to develop a school stability plan as part of each child's case plan in an effort to promote education stability for students in foster care. School divisions recognize that the school setting is often the most stabilizing environment for students in foster care. School personnel have a major role in coordinating a school stability plan that is in each child's best interest.

The LDSS and school divisions must work together to jointly determine the school placements that are in the best interest of each child in foster care when their residences change. Every school division has designated a foster care liaison to serve as a resource in facilitating the best interest determination in his or her community. VDSS has designated the Regional Permanency Consultants to provide technical assistance when needed.

When making the decision on an appropriate residence for a child in foster care, representatives of LDSS are required by Fostering Connections to take into account the appropriateness of the child's current educational setting and the distance from the new residence to the school in which the child is currently enrolled. When the LDSS determines the most appropriate residence for the child, Fostering Connections and Virginia state law require the LDSS and the school division representative/foster care liaison to work together to jointly determine the child's best interest for school placement. The main objective of this coordination is to ensure educational stability for children in foster care, including students with disabilities served under the *Individuals with Disabilities Education Act of 2004* (IDEA) or the *Rehabilitation Act of 1973*, as amended. The presumption is that the child will remain in the school where he or she is currently enrolled, unless contrary to the child's best interest.

D. Overview of Sequence and Time Frame for Activities

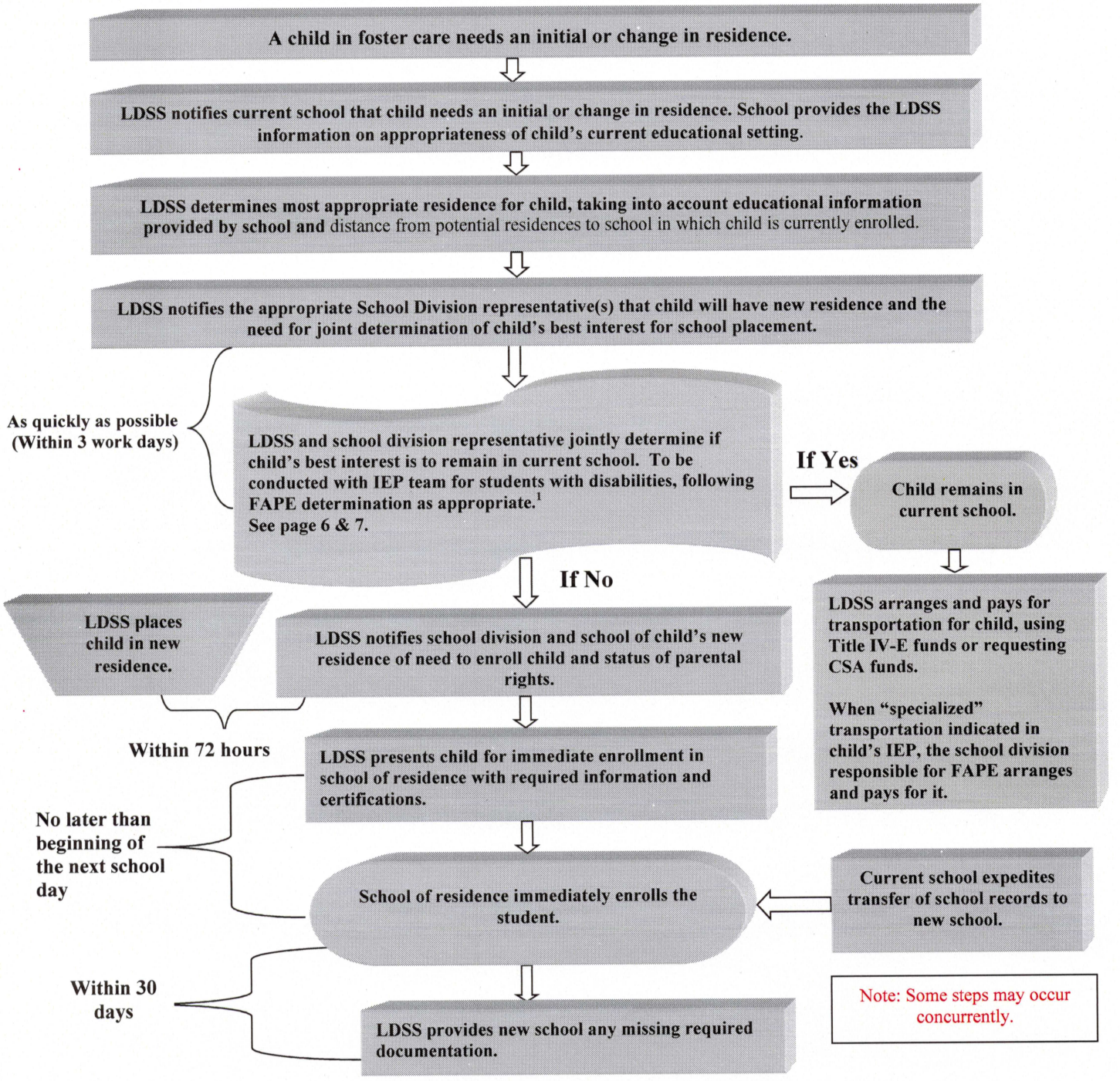
The School Placement Process Flow Chart on page 4 provides a visual summary of the process described below:

1. Residence Determination: The LDSS determines the most appropriate residence for the child.

2. School Placement Determination: The School Division and the LDSS jointly determine the child's best interest for school placement.

3. Subsequent Actions: The LDSS or the school division provides transportation to remain in current school or immediately enroll in the new school of residence.

School Placement Process for Child in Foster Care



[1] This provision and the subsequent provisions in this document apply also to students with disabilities who are served under a 504 Plan pursuant to the Rehabilitation Act of 1973, as amended. (FAPE) refers to Free & Appropriate Public Education.

1. Residence Determination

- The LDSS must notify the child's current school that the child needs a new residence and the necessary time frame for the LDSS determination of the child's most appropriate residence.
- The current school must provide the LDSS information on the appropriateness of the child's current educational setting.
- The LDSS must take into account this educational information and the distance from potential placements to the child's current school in the decision-making process for determining the new residence.
- The LDSS must determine the most appropriate residence for the child and must notify the school division representative/foster care liaison (as outlined below) of the need to jointly determine the child's best interest for school placement.

The LDSS convenes a Family Partnership Meeting before moving the child to a new residence. The purpose of the meeting is to engage the child, family, and community members, as appropriate, in determining the most appropriate residence to help achieve safety, a permanent family, and lifelong connections for the child. The LDSS and the school where the child is currently enrolled must work together to help inform this decision-making process. The school must provide information on the appropriateness of the child's current educational setting. The LDSS must take into account this information, the distance from potential placements to the child's current school, and other critical factors in making the placement decision. The school division representative may be asked to attend the Family Partnership Meeting, or the school may provide this information through an alternative method.

2. School Placement Determination

The school division and the LDSS jointly determine the child's best interest for school placement. For general education students and for students with disabilities (after the FAPE determination is made that the child can be enrolled in either school), the LDSS and appropriate school representative/IEP team must work together to determine the child's best interest for school placement and ensure educational stability for the child. The presumption is that the child will remain in the current school where he/she was last enrolled, unless contrary to the child's best interest. The LDSS and the school representative/IEP team, in collaboration with the child and other key partners, make a determination as to whether the child should:

- remain in the school where the child was enrolled at the time of placement in the new residence, taking into account the appropriateness of the educational setting; or

- change schools and enroll in the school of residence for the child's new residence placement, if remaining in the current school is not in the child's best interest. The child must be enrolled immediately and appropriately with all educational records provided to the new school. It is recommended that the records be received within five days of enrollment.

When placing the child in the new residence, the LDSS is required by state law to document in writing the joint determination with the appropriate school division of whether it is in the child's best interest to remain enrolled in the current school (§ 63.2-900.3 of the *Code of Virginia*). Therefore, the Best Interest Determination for Foster Care Placement Form (see Appendix A) should be completed **as quickly as possible** (e.g., within three (3) work days) after the LDSS service worker notifies the school division of the child's new residence.

The joint determination for school placement should not delay the child's placement in the new residence. If the joint determination process cannot be completed prior to the placement in the new residence (e.g., an emergency placement to ensure the child's safety), the presumption is that the child will remain enrolled in the current school, until the best interest determination process can be completed.

For general education students:

- The LDSS must contact the child's current school division foster care liaison to convene the best interest determination meeting.
- The LDSS and the school division foster care liaison where the child is enrolled must coordinate to determine jointly the child's best interest for school placement, in consultation with the child and other key partners.
- The child should remain in the current school, unless contrary to the child's best interests.

For students with disabilities served under IDEA:[2]

For students with disabilities, the responsibility for placement determination and the mechanism for making the determination are driven not only by Fostering Connections, but also by the state and federal regulations under IDEA. Thus, in determining which school division to involve in the best interest determination, the school division and LDSS must determine which school division is responsible under IDEA for the student's free appropriate public education (FAPE), and the student's Individualized Education Program (IEP) team must participate in the decision.

For students with disabilities whose new residence is in the *current* school division:

When a special education student's new residence is in the current school division, the LDSS must contact the child's current school division foster care liaison to convene the best interest determination meeting. The child should remain in the current school unless contrary to the child's best interest. If a change in school placement is being considered, the IEP team from the student's current school, along with the school division representative, determines where the student can receive FAPE. If the student can receive FAPE in both settings, the IEP team, division representative, and LDSS service worker collaborate on the best interest determination. If the student cannot receive FAPE in both schools, the student must be enrolled in the school where

[2](See Footnote 1.)

FAPE can be provided. While Fostering Connections is silent on the issue, best practice would suggest that the student's IEP team at the school in which he or she was enrolled prior to the change in residence would be engaged for the best interest determination.

For the student with a disability whose new residence is in a *different* school division:

In cases where the student's new residence is in a different school division, state regulations governing special education provide that the school division where the child's new residence is located is responsible for FAPE. In these cases, an IEP team designated by the receiving school division must be convened to participate in the best interest determination, as well as determine what constitutes FAPE for the child. The LDSS service worker must contact the school division foster care liaison where the student is currently enrolled, and the school division foster care liaison for the child's new residence, of the need to convene the best interest determination meeting. If, however, the IEP team in the division where the child's new residence is located determines that the child needs to be placed in a private day or residential facility for educational reasons, the responsibility for FAPE shifts back to the sending school division. Then that school division participates in the best interest determination process. The student stays in the current school during the best interest determination process.

Both Fostering Connections and the Virginia statutory provisions regarding educational stability support the need for collaboration between the sending and receiving school divisions to ensure educational stability for the student.

2.1 Engaging Key Partners in Determining Child's Best Interest for School Placement

Essential members of the team determination process for general education students include:

- child;
- child's birth parent(s) or prior custodian;
- individuals the child would like to participate;
- service worker; and
- school division representative/foster care liaison.

For students with a disability, the LDSS service worker and the school division foster care liaison(s) must determine the parent for special education purposes in order to convene the student's IEP team. Some or all of the noted individuals may be included in accordance with the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8 VAC 20-81-110).*

The LDSS service worker should engage the child in discussions to:

- solicit his or her wishes related to school placement.

- address constructively any concerns the child may have.
- discuss the benefits of having someone attend the meeting to help ensure his or her wishes are communicated.
- ask who the child would like to attend the meeting. The service worker should arrange for this person's participation in the meeting.

The school division representative/foster care liaison and the LDSS service worker should make all reasonable efforts to involve other individuals who have knowledge of the child to attend and participate in the best interest determination meeting. The best interest determination may occur during an IEP meeting for students with a disability. Participation for IEP meetings may occur through teleconferences or other electronic means where permitted, and participants other than those required to attend under applicable special education regulations may submit written information. For general education students, participation may also occur through phone calls, teleconferences, e-mails, or other electronic means.

To share the workload, the school division representative/foster care liaison and LDSS service worker may want to involve or consult the following key partners in the best interest determination, as appropriate.

The school division may involve:

- a school division representative from the school of residence for the child's new residence or current school, as applicable
- classroom teachers
- school social workers
- school counselors
- special education and related service personnel, as appropriate
- coaches

The service worker may involve:

- the child's birth parent(s) or prior custodian
- other family members
- resource parent(s) or current placement provider, and other service providers
- guardian ad litem
- other adults who are significant for the child and family

2 .2 Factors to Assess in Determining Child's Best Interest for School Placement

According to federal and state law, the child's safety and permanency plan must be paramount in decision making. Additional factors to assess in determining the child's best interest for school placement include, but are not limited to:

- the preferences of the child, the birth parents or prior custodians as appropriate, and the resource parent(s) or current placement provider of the child;
- school stability and educational continuity for the child, as well as time in the school year, and distance from the child's current school to the new placement;
- personal safety, attendance, academic progress and social involvement of the child in the current school;
- the impact transferring the child to a new school may have on the child's needs and progress academically, emotionally, socially, and physically; and
- solutions addressing any practical issues identified, such as travel to the child's current school from the new residence.

The Best Interest Determination for Foster Care School Placement Form (Appendix A) should be used to assist the service worker and the school division representative in jointly determining the child's best interest for school placement. This form provides a series of questions that documents the determination process and compliance with federal law.

The LDSS service worker is required to document the best interest determination in the child's case file, including factors considered, participants involved in the collaborative process, the team's determination for school placement, and the placement decision. Documentation of the best interest determination is maintained in both the LDSS's child case file and the school's student cumulative record. If a change in school placement is determined to be in the child's best interest, the school where the child was previously enrolled must send this documentation to the new school as part of the student's cumulative record.

3. Subsequent Actions: Provide transportation for the student to remain in the current school or immediately enroll the student in the new school of residence:

If the child will remain in the current school:

- For general education students and for students with disabilities who use regular school transportation, the LDSS must arrange for transportation and payment of transportation expenses for the child to remain in the current school, using Title IV-E funds or requesting state pool funds through Comprehensive Services Act.[3]

- For students with IEPs that require specialized transportation, including transportation to a private school program, the responsible school division arranges and pays for transportation.

[3] CSA means the Comprehensive Services Act for At-Risk Youth and Families that establishes the collaborative administration and funding system for services for certain at-risk youths and their families. §2.2-5200 et seq., *Code of Virginia.*

If the child will enroll in the school for the child's new residence:

- If the LDSS and school division jointly determine that remaining in the current school is not in the child's best interest, Section 63.2-900.D of the *Code of Virginia* specifies that:

> *Within 72 hours of placing a child of school age in a foster care placement, as defined in § 63.2-100, the local social services agency making such placement shall, in writing, (i) notify the principal of the school in which the student is to be enrolled and the superintendent of the relevant school division or his designee of such placement, and (ii) inform the principal of the status of the parental rights.*

This mandated time frame for notification may overlap and/or dictate the time frame for determining the child's best interest for school placement, depending upon when the child is placed in the new residence.

3.1 Payment for Regular School Transportation

For general education students and students with disabilities who use regular school transportation, funding for regular school transportation is available as a legitimate maintenance expense. These payments are made in addition to the basic maintenance payments made on behalf of the child. Reasonable costs shall be paid from:

- Title IV-E for eligible children, consistent with federal and state law/policies
- state pool funds through CSA for non-Title IV-E eligible children, consistent with state law.

The LDSS considers a wide range of options for providing transportation by providers who ensure the child's safety and well-being. Providers must have a valid driver's license and automobile insurance. The child must be properly secured in a child restraint device consistent with state law.

Payment for reasonable costs must be made to specific providers to transport an eligible child. Individual providers reimbursed at the state mileage rate must submit to the LDSS proof of actual miles driven. Types of providers and reasonable costs may include the following:

- foster parents reimbursed at the state mileage rate
- friends, relatives and neighbors of the child or foster parent reimbursed at the state mileage rate
- employees of child placing agencies and residential programs reimbursed at the state mileage rate
- bus fare or similar reasonable public transportation paid at the established rate

- local school bus with reimbursement made to the local school division's school bus transportation fund (There must be a written and signed agreement/contract between the LDSS and the local school division or the company that manages the school bus system. This document shall be placed in the child's file at the LDSS.)

3.2 Payment for "Specialized" Transportation Indicated in Child's IEP

When a youth entering or in foster care has an IEP that requires "specialized" transportation to the current school, such transportation costs are paid for by the school division responsible for FAPE (as noted previously). Neither Title IV-E funds nor CSA funds can be used for services outlined in an IEP. "Specialized" transportation includes individualized provisions, noted in the IEP, that are needed because of the student's disability and that are necessary to guarantee access to a FAPE. Examples include the following:

- A student requires transportation to a private school program (i.e., private day or private residential school).
- A student requires physical accommodations/modifications (e.g., car seat or security devices such as harnesses, brackets, restraints, seatbelts, vests, etc.).
- A student requires specialized equipment such as special or adapted bus, lift, or ramp.
- A student requires a bus with a two-way radio, phone, or other equipment, in case of emergency.
- A student requires specialized services including personnel to provide assistance or supervision (e.g., aide).
- A student requires necessary medical equipment to perform procedures on the bus.
- A student requires alteration to a school or bus schedule (e.g., partial day attendance, shortened bus ride, etc.).

3.3 Immediate Enrollment in Child's New School of Residence

- "Immediate" means no later than the beginning of the next school day after the presentment for enrollment.
- "Presentment" means the person enrolling the child has appeared at the school and presented all required information and certifications (§ 22.1-3.4 of the *Code of Virginia*).
- "Enrollment" means the child is attending classes and participating fully in school activities.

The LDSS uses the Notice of Receiving Foster Care Services Form to notify the school that the student is in foster care. The student is immediately and appropriately enrolled with all educational records provided to the new school. Delays in continuous enrollment in school are not in the best interest of the child, and both federal and state laws prohibit delaying the child's ongoing education.

The service worker should submit the Immediate Enrollment of Child in Foster Care Form (see Appendix B) to the school which provides all required information for school enrollment. The

LDSS worker should print the form on yellow paper to alert the school and distinguish it from other documents.

The form:

- Documents the minimum legal requirements for immediately enrolling the child. The person enrolling the student provides a written statement with the child's name, and address, and to the best of the person's knowledge: the student's age, required certifications, and that the student is in good health and is free from communicable or contagious disease (§ 22.1-3.4 of the *Code of Virginia*).

- Provides necessary information to ensure a smooth transition and affirmation of educational continuity for the child and school.

When the timing of the LDSS presentment for immediate enrollment and the LDSS official notification of the need to enroll the child coincide, the Immediate Enrollment of Child in Foster Care Form (Appendix B) may be used for both purposes. This form meets all the LDSS legal notification requirements. In such circumstance, copies of the completed form must also be provided to the school for the superintendent, or designee, and the principal to comply with state legal requirements, in addition to providing the form to the school at presentment.

Upon presentment of the form or the minimum legal requirements, the new school must immediately enroll the child no later than the beginning of the next school day. If, despite all reasonable efforts, school officials are unable to enroll the child by the beginning of the next school day following presentment for enrollment, the student shall be enrolled no later than the second school day following presentment. In such instances, school officials document reasons for the delay and attach this information to the Immediate Enrollment Form.

The sending and receiving school division representatives must expedite the transfer of the student's record in accordance with § 22.1-289 of the *Code of Virginia* and the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, as applicable.

If the documents required by the school to enroll the child are not immediately available when the LDSS assumes custody or changes placement of the child, the LDSS must obtain and produce, or otherwise ensure compliance, with these requirements within thirty (30) days after enrollment of the child (§ 63.2-900.D of the *Code of Virginia*).

These documents include the child's:

- birth certificate (§ 22.1-3.1.A of the *Code of Virginia);*
- proof of immunization (§ 22.1-271.2 *of the Code of Virginia)*; and
- pre-school physical examination (§ 22.1-270 of the *Code of Virginia*).

For students with disabilities, the school division responsible for the child's IEP and FAPE must ensure that the child receives FAPE even if the required enrollment documents are not

immediately available (8 VAC 20-81-30.D). Additionally, the school division must also ensure that any related IEP requirements are followed, including as necessary, the requirements of Prior Written Notice, and notices of IEP meetings.

The school retains the Immediate Enrollment of Child in Foster Care Form in the student's cumulative record. The LDSS must retain a copy of the form for the child's file, with copies provided to the birth parents, prior custodians, and/or the foster, adoptive or resource parent(s), as appropriate.

E. Resolving School Placement Disputes

It is the responsibility of the LDSS and the school division to collaborate in the child's best interest in determining school placement and to resolve any conflict concerning the school placement determination.

If the school division representative/foster care liaison and LDSS service worker do not agree on the child's best interest for school placement, the procedure delineated below should be followed for resolving school placement disputes.

1. During the resolution process, the student ***remains*** in the school in which he or she was enrolled at the time of placement in the new residence.

2. Within five work days of the best interest determination meeting, the LDSS supervisor and the school division administrator work together, review the best interest determination documentation, and resolve the dispute.

3. If the school division administrator and LDSS supervisor do not agree on the child's best interest for school placement, a written request is submitted within the same five work days to the school division superintendent (or designee) and the LDSS director (or designee) for a review of the best interest determination documentation. The written request includes the completed Best Interest Determination for Foster Care School Placement Form which documents:

    - the factors that were considered in determining the school placement that is in the child's best interest;
    - the team's determination for school placement;
    - the participants involved;
    - whether each participant agreed or disagreed with the team's determination;
    - the reasons for agreement or disagreement;
    - any additional information pertinent to the dispute; and
    - efforts made to resolve the dispute.

4. Within ten work days following the submission of a written request, the LDSS director (or designee) and the school division superintendent (or designee) review the request, the best interest determination documentation, and any additional information pertinent to the dispute. They work together to resolve the dispute.

    - If the LDSS director (or designee) and the school division superintendent (or designee) reach consensus regarding the child's best interest for school placement, the LDSS service worker and the school division representative are informed of the decision.

    - If the two parties cannot agree, they should obtain guidance and consultation from their respective state agencies. This request is submitted within a ten-day time frame. The LDSS submits this request to the Regional Permanency Consultants. Local school division representatives submit their requests to the Virginia Department of Education, Office of Student Services.

5. After the Virginia Departments of Education and Social Services work together to provide guidance and technical assistance to the involved local agencies, the school division superintendent (or designee) and LDSS director (or designee), in consultation with the team, make the decision of placement.

6. All written documentation is placed in the child's case file and the student's cumulative record to be available for any required federal reviews.

Note: For students with disabilities, the determination regarding the ability of a student to receive FAPE is the exclusive decision of the student's IEP team. Such a determination may only be challenged through the established dispute resolution mechanisms of special education law – i.e., a state complaint, mediation or due process hearing. The IEP team determination, or the determination reached through the special education dispute resolution process is final, and the child must be enrolled in the school that can provide FAPE.

Pecora, P.J., Williams. J., Kessler, R. C., Downs. A.C., O'Brien, K., Hiripi, E., & Morello, S., *Assessing the effects of foster care: Early results from the Casey National Alumni Study.* Non-profit foundation report, Seattle, WA: Case Family Programs, 2003.

Resources

- Federal law requiring educational stability for children in foster care (Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351); Social Security Act, Title IV, § 475 (1) (G) [42 USC 675])
- Virginia Regulations Governing Special Education Programs for Children with Disabilities, http://www.doe.virginia.gov/special_ed/regulations/state/regs_speced_disability_va.pdf
- Virginia Department of Education Superintendent's Memo No. 306-10, dated December, 10, 2010
- Virginia Department of Education Superintendent's Memo No. 197-11, dated July 22, 2011
- Virginia Department of Education Superintendent's Memo No. 244-11, dated September 9, 2011
- Virginia Department of Education Superintendent's Memo No. 297-12, dated November 2, 2012
- Virginia Department of Social Services (VDSS) Child and Family Services Manual, Foster Care Chapter E, Section 6.17 on school placements
- VDSS Finance Guidelines Manual, Section 4.25, LASER Budget Line and Cost Code Descriptions, 811
- VDSS Notice of Receiving Foster Care Services Form

Contact Information

VDOE: Project HOPE-Virginia: (757) 221-4002

VDSS: Regional Permanency Consultants:

Piedmont Regional Office (540) 204-9611
Western Regional Office (276) 676-5490
Eastern Regional Office (757) 491-3990
Northern Regional Office (540) 347-6250
Central Regional Office (804) 662-9743

Local Liaisons:

School Division Foster Care Liaisons, see list at:
http://www.doe.virginia.gov/support/student_family/foster_care_students/index.shtml