

PROCEDURE 3116P – STUDENTS IN OUT-OF-HOME (FOSTER) CARE

Definitions

- **Additional costs incurred in providing transportation** are those costs that reflect the difference between what the district would otherwise spend to transport a student to his or her assigned school and the cost of transporting a student in foster care to his or her school of origin. The district would, for example, incur an additional cost if it had no choice but to re-route busses to transport a student in foster care to one of its schools.
- **Best interest determination** means using child-centered criteria for determining which educational setting is best for a particular child. Decisions should be made on a case-by-case basis and should not be based on the cost of transportation.
- **Caregiver** means potential out-of-home placement options including licensed foster homes, relatives, group care providers or other court-ordered suitable parties. All placement options result from state dependency court actions. This term is relevant to the dispute resolution process for education-services decisions relevant to students in out-of-home care.
- **Educational decision-maker** means the caregiver and social worker listed on the *Caregiver Authorization Form* who are authorized to make day to day decisions for children and youth in out-of-home care. Additional decision-makers such as the birth parent, education liaison or other appropriate adult may be court-appointed and identified on the *Health and Education Authorization Court Order*. This term is relevant to the dispute resolution process for enrollment and transportation decisions relevant to students in foster care.
- **Foster care** has the same meaning as in RCW 32 28A.150.510 and describes the status of any student who is the subject of a dependency proceeding, including Unaccompanied Refugee Minors (URM) and students under the sole jurisdiction of tribal child welfare.
- **Other supervising agency** means an agency licensed by the state under RCW 74.15.090 or licensed by a federally recognized Indian tribe located in Washington under RCW 74.15.190 that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.
- **School of origin** means the school in which a child is enrolled at the time of placement in foster care. If a child's foster care placement changes, the school of origin would then be considered the school in which the child is enrolled at the time of placement change.

Duties of the foster care liaison

The superintendent or designee will designate a district foster care liaison to facilitate district compliance with state and federal laws related to students in foster care and to collaborate with the department of children, youth, and families to address educational barriers for these students. The role and responsibilities of a foster care liaison may include:

- a) Coordinating with the department of children, youth, and families on the implementation of state and federal laws related to students in foster care;
- b) Coordinating with foster care education program staff at the office of the superintendent of public instruction;
- c) Attending training and professional development opportunities to improve school district implementation efforts;
- d) Serving as the primary contact person for representatives of the department of children, youth, and families;

- e) Leading and documenting the development of a process for making best interest determinations in accordance with the processes identified in this procedure;
- f) Facilitating immediate enrollment in accordance with RCW 28A.225.330;
- g) Facilitating the transfer of records in accordance with RCW 28A.150.510 and 28A.225.330;
- h) Facilitating data sharing with child welfare agencies consistent with state and federal privacy laws and rules;
- i) Developing and coordinating local transportation procedures;
- j) Managing best interest determination and transportation cost disputes according to the best practices developed by the office of the superintendent of public instruction;
- k) Ensuring that students in out-of-home care are enrolled in and regularly attending school, consistent with RCW 28A.225.023; and
- l) Providing professional development and training to school staff on state and federal laws related to students in foster care and their educational needs, as needed.

The district foster care liaison will also:

- Collaborate with the district's Title I coordinator and the appropriate child welfare agency point of contact on the implementation of Title I provisions;
- Document all best interest determination processes as well as collaboration with the child welfare agency or agencies;
- Develop and coordinate local transportation procedures;
- Manage transportation costs disputes;
- Coordinate all appeals of education-based decisions for students in out-of-home care and district appeals of inter-agency disputes; and
- As resources permit, provide guidance to school staff on Title I provisions and educational needs of students in foster care on an as-needed basis.

Enrollment in school of origin

When the district foster care liaison receives notification from a child welfare agency that a student in foster care will be moving to a new residence and the necessary timeframe for determining the student's most appropriate school placement, the district liaison/designee will in turn provide the agency with information on the appropriateness of the current educational setting. In order to minimize disruption to their education, students in foster care must remain enrolled in their school of origin, unless it is determined that such placement is not in the student's best interest. School of origin means the school in which a child is enrolled at the time of placement in foster care. If a child's foster care placement changes, the school of origin must be considered the school in which the child is enrolled at the time of the placement change.

Best interest determination

When a determination of the student's best interest is necessary, it will take into account a variety of student-centered factors and input from relevant and appropriate persons. The student-centered factors for consideration should include:

- a) How long is the student's current out-of-home care placement expected to last?
- b) What is the student's permanency plan and how does it related to school stability?
- c) How many schools has the student attended in the current year?
- d) How many schools has the student attended over the past few years?

- e) Considering the impacts of past transfers, how may transferring to a new school impact the student academically, emotionally, physically, and socially?
- f) What are the immediate and long-term educational plans of, and for, the student?
- g) How strong is the student academically?
- h) If the student has special needs, what impact will transferring to a new school have on the student's progress and services?
- i) To what extent are the programs and activities at the potential new school comparable to, or more appropriate than, those at the school of origin?
- j) Does one school have programs and activities that address the unique needs or interests of the student that the other school does not have?
- k) Which school does the student prefer?
- l) How deep are the child's ties to his or her school of origin?
- m) Would the timing of the school transfer coincide with a logical juncture, such as after testing, after an event that is significant to the student, or at the end of the school year?
- n) How would changing schools affect the student's ability to earn full academic credit, participate in sports or other extracurricular activities, proceed to the next grade, or graduate on time?
- o) How would the commute to the school under consideration impact the student, in terms of distance, mode of transportation, and travel time?
- p) How anxious is the student about having been removed from the home or about any upcoming events?
- q) What school does the student's sibling attend? And
- r) Are there safety issues to consider?

When making best-interest determination, every effort should also be made to gather meaningful input from relevant and appropriate persons on their perspective regarding which school the student should attend during his or her time in foster care, consistent with the student's case plan. Such relevant and appropriate persons include:

- a) Representatives of the department of children, youth, and families;
- b) Representatives of the school of origin, such as a teacher, counselor, coach, or other meaningful person in the student's life;
- c) Biological parents;
- d) Foster parents;
- e) Educational liaisons identify under RCW 13.34.045;
- f) The student's relatives; and
- g) Depending on his or her age, the student.

Additionally, the district will adopt any best-interest determination guide developed by the office of the superintendent of public instruction during the discussion about the advantages and disadvantages of keeping the student in the school of origin or transferring the student to a new school.

The best interest determination will be made as quickly as possible in order to prevent educational discontinuity for the student. Written notification of the determination will be given to appropriate parties involved in the determination, including the student's biological parents, foster parents, school representatives and educational liaisons, as well as representatives of the department of children, youth, and families.

Only a caregiver or education decision-maker for the student may file an appeal using the Dispute Resolution Process.

Dispute resolution process: Disputes between the district and the student's caregiver / education decision-maker

The District will adopt and implement any dispute resolution process developed by the office of the superintendent of public instruction when there is a disagreement about the best interest determination or other foster care provisions of the Every Student Succeeds Act of 2015. Students who are in foster care and who are also eligible for special education services have access to additional processes. Disagreements that arise about a student's special education program can be resolved using the dispute resolution options available under special education law.

Level One

The student's caregiver or education decision-maker may dispute the district's best interest determination, or the implementation of the foster care provisions of the Every Student Succeeds Act of 2015 for a student in foster care. They may do so by providing the district or the district's foster care liaison with written notice of the dispute within fifteen (15) business days of receiving notice of the district's determination (e.g., that the district intends to enroll the student in a school other than the school of origin):

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The notice of dispute, if provided *to the district*, will be immediately forwarded to the foster care liaison, or, if that person is unavailable, another designee. The liaison will log receipt of the notice (including the date and time), and then forward a copy of this documentation to their immediate supervisor and the superintendent or designee.

The liaison will make a decision on the dispute within five (5) business days of receipt and inform the caregiver or educational decision-maker in writing of the result. The following documents will be included with the decision in an "appeals package":

- A copy of the original notice of dispute;
- Any additional information from the caregiver or educational decision-maker and/or foster care liaison; and
- Instructions on appealing the decision to Level II.

The liaison will verify receipt of the written decision by the caregiver or education decision-maker.

Level Two

If the caregiver or education decision-maker disagrees with the decision of the foster care liaison, he or she may appeal the decision to the superintendent or his/her designee (who must be someone other than the foster care liaison). He or she may do so by providing the superintendent's office with a copy of the Level I appeals package within ten (10) business days of their receipt of the Level I decision.

Within five (5) business days of the notification to the district that the caregiver or education decision-maker intends to appeal, the superintendent or designee will arrange to meet within a reasonably expeditious time period either in-person or through phone/video conference with the student's caregiver or educational decision-maker, the student if appropriate, and at least one representative from DCYF or another supervising agency. If it is not possible for the DCYF or other supervising agency representative to be present within a reasonable time, the superintendent or designee will document their efforts to include the representative and proceed with the conference.

Within five (5) business days of the conference, the superintendent or designee will provide the caregiver or educational decision-maker with a written decision, supporting evidence, reasons for the decision and an appeals package that includes:

- A copy of the initial dispute filed at Level I and the Level I decision;

- The Level II decision rendered by the superintendent or designee;
- Any additional information from the caregiver or education decision-maker and/or foster care liaison;
- Instructions as to how to file a Level III appeal, including the physical address and email address of where to submit the dispute:

Foster Care Education Program Supervisor
 Old Capital Building
 PO Box 47200
 Olympia, WA 98504-7200
fostercare@k12.wa.us

The district's foster care liaison will also be provided a copy of the Level II decision and appeals package. The liaison will be responsible for verifying receipt of the decision and appeals package by the caregiver or educational decision-maker.

Level III

If the caregiver or education decision-maker disagrees with the decision of superintendent or designee, he or she may appeal the decision by notifying the district's foster care liaison within ten (10) business days of receipt of the Level II decision of their intent to file a Level III appeal.

The superintendent or designee will forward all written and electronic documentation to the OSPI Foster Care Education Program Supervisor or designee for review within five (5) business days of receiving notification of the caregiver or education decision-maker's intent to file a Level III appeal.

The caregiver or education decision-maker may also submit related documentation to the OSPI Foster Care Education Program Supervisor and the district's foster care liaison for review within five (5) business days after notifying the district of their intent to file a Level III appeal. The documentation must be submitted in one consolidated and complete package via email or the US Postal Service.

The OSPI Foster Care Education Program Supervisor or designee and appropriate DCYF representatives shall make a decision within fifteen (15) business days of receipt of the dispute. The decision will be forwarded to the district's foster care liaison for distribution to the caregiver or educational decision-maker, the DCYF representative engaged by the district at Level II and the superintendent. The decision shall be the final resolution for placement and the provision of services for a child or youth in foster care in the district.

The district will maintain records of disputes resolved at the Level I, Level II and/or Level III and shall be made available to OSPI upon request.

Dispute Resolution Process: Disputes between the district and the child welfare agency

For every type of dispute regarding a student in foster care, the district and the local child welfare agency must make every effort to resolve the dispute collaboratively at the local level. Disputes between the district and DCYF or Other Supervising Agency that remain unresolved shall be forwarded in writing by either of the disputing parties to the OSPI Foster Care Education Program Supervisor or designee, and the other party.

A decision will be made by the OSPI Foster Care Education Program Supervisor, or designee, along with a committee of OSPI and DCYF staff within ten (10) business days of the receipt of the dispute.

The decision will be forwarded, in writing, to the district's superintendent, the district's foster care liaison, and the DCYF representative involved in the dispute. The decision made by the committee shall be final.

