



## Virginia Department of Education & Virginia Department of Social Services Joint Guidance on School Placement for Children in Foster Care



### **Federal Statutory Requirement**

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 contains language to ensure school stability for children in out-of-home care. It applies both to students eligible under the McKinney-Vento Act as “awaiting foster care placement” and those in foster care but not eligible under McKinney-Vento. The Fostering Connections Act requires that the child welfare agency coordinate with local educational agencies to ensure educational stability for every child in foster care.

When making the decision on an appropriate residence<sup>1</sup> for a child in foster care, representatives of the local departments of social services (LDSS) are required by the Fostering Connections Act 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. After the LDSS determines the most appropriate residence for the child, the Act requires the LDSS service worker and a representative of the school in which the child was enrolled prior to the change in residence to work together to determine the child’s best interest for school placement and to ensure educational stability for the child. In other words, the LDSS must consider school stability in planning and placements for every child in foster care. The LDSS and the schools must collaborate in determining the school placement that is in every child’s best interest when his or her residence changes.

### **Sequence and Timeframe for Activities**

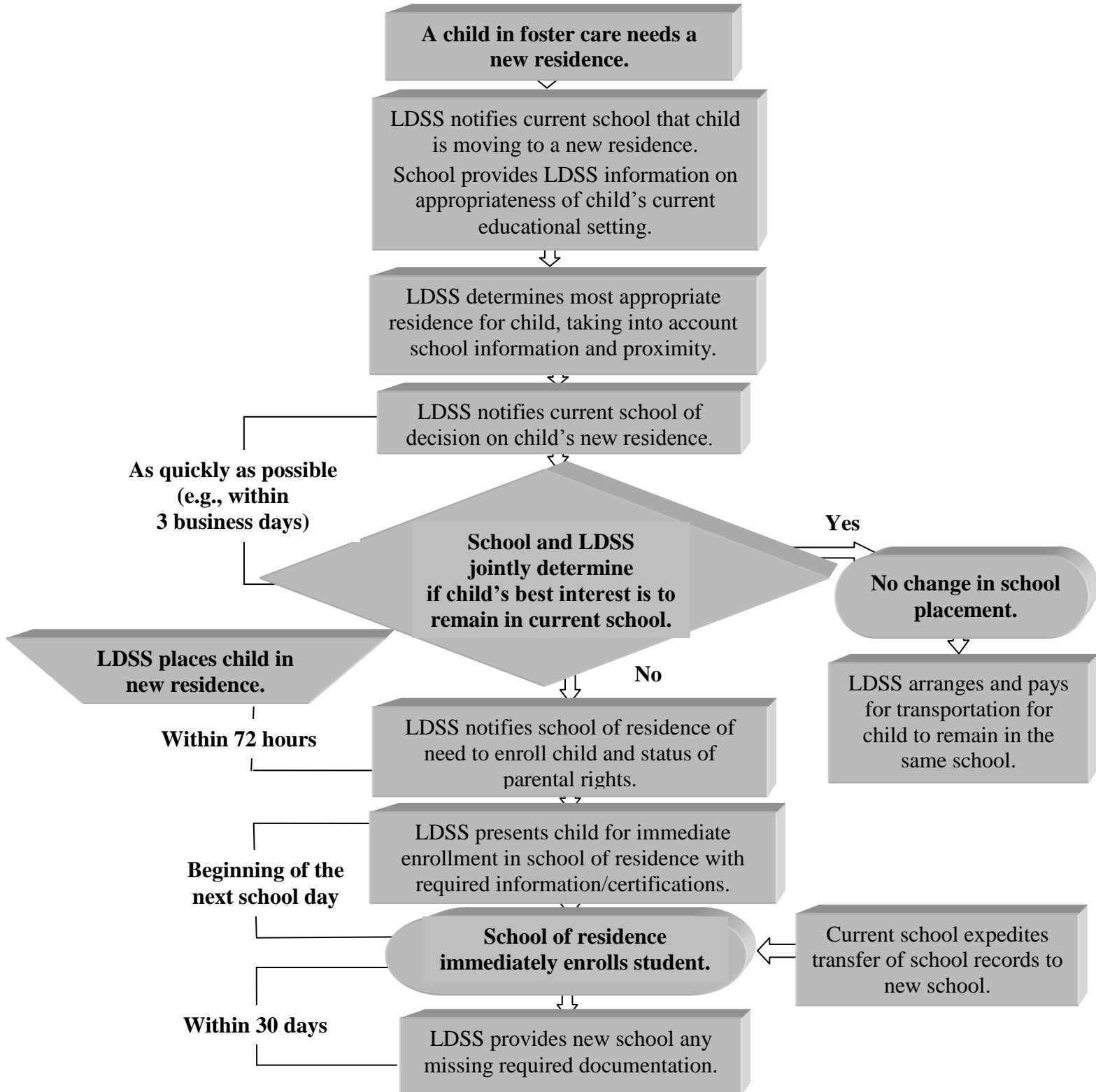
- The LDSS shall notify the child’s current school that the child will be moving to a new residence and the necessary timeframe for determining the child’s most appropriate residence.
- The school shall provide the LDSS information on the appropriateness of the child’s current educational setting.
- The LDSS shall take into account this information and the distance from potential placements to the child’s current school in the decision-making process.
- The LDSS shall determine the most appropriate residence for the child and notify the child’s current school of the decision.
- The LDSS and the child’s current school shall jointly determine the child’s best interest for school placement, in consultation with the child and other key partners. The best interest determination for school placement should be completed **as quickly as possible (e.g., within three business days)** after the LDSS notifies the school of the decision on the child’s new residence.
- The child should remain in the same school, unless contrary to the child’s best interests.
  - The LDSS shall arrange for transportation and payment of transportation expenses for the child to remain in the school.

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<sup>1</sup> Residence means foster care placement to clearly distinguish from school placement in this joint guidance.



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- If the LDSS and school jointly determine that remaining in the same school is not in the child's best interest, the LDSS shall notify the school of residence for the child's new residence of the need to immediately enroll the child and the status of parental rights **within seventy two hours of the LDSS placing the child** (§ [63.2-900.D](#) of the Code of Virginia). This legally required timeframe for notification may overlap and/or dictate the timeframe for determining the child's best interest for school placement, depending upon when the child is actually placed in the new residence.

To immediately and appropriately enroll the child:

- The LDSS shall present the child to the new school of residence with all required information and certifications for immediate enrollment.
- The school of residence shall immediately enroll the child to attend and fully participate in all activities **beginning the next school day after the presentment** for enrollment.
- If, despite all reasonable efforts, school officials are unable to enroll the child by the beginning of the next school day, the student shall be enrolled no later than the second school day following presentment.
- The LDSS and the school where the child was originally enrolled shall ensure that all educational records for the child are provided to the new school. They should communicate with the child's new school of residence to ensure a smooth transition and educational continuity.
- If the documents required for enrollment of the child are not immediately available, the LDSS shall obtain or ensure these documents are provided to the new school **within 30 days after the child's enrollment**.

### **Taking Educational Factors into Account in LDSS Decision on Child's New Residence**

The LDSS should convene 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 life-long connections for the child. The LDSS and the school where the child is currently enrolled shall work collaboratively to help inform this decision-making process. The school shall provide information on the appropriateness of the child's current educational setting. The LDSS shall 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 representative may be asked to attend the Family Partnership Meeting or the school may provide this information through an alternative method.

### **Determination of Child's Best Interest for Foster Care School Placement**

After the LDSS determines the most appropriate residence for the child, the LDSS service worker and a representative of the school in which the child was enrolled prior to the new placement shall work together to determine the child's best interest for school placement and to ensure educational stability for the child.



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The presumption should be that the child will remain in the same school where the child was last enrolled to provide school stability and educational continuity for the child, unless contrary to the child's best interests.

The service worker and school representative, in collaboration with the child and other key partners, should 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, if remaining in the same school is not in the child's best interest. The child shall be enrolled immediately and appropriately with all educational records provided to the new school ([Fostering Connections to Success and Increasing Adoptions Act of 2008 \(P.L. 110-351\)](#); [Social Security Act, Title IV, § 475 \(1\) \(G\) \[42 USC 675\]](#)).

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

Essential members for the team determination process include the:

- Child;
- Child's birth parent(s) or prior custodian;
- Individual the child would like to participate;
- Service worker;
- School representative; and
- Parent for special education purposes, if applicable (§ [22.1-213.1](#) of the Code of Virginia).

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; and
- 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 representative and 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. Participation may also occur through phone calls, teleconferences, emails, or other electronic means.

To share the workload, the school representative and LDSS service worker may want to involve or consult the following key partners, as appropriate.

The school representative may involve:



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- A school division representative from the child's school at the time of placement in the new residence and/or the school of residence for the child's new residence;
- Parent for special education purposes;
- Classroom teachers;
- School social worker;
- School counselors;
- Special education coordinator if the child has an IEP or 504 plan; and
- 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;
- Guardian ad litem; and
- Other adults who are significant for the child and family.

### **Factors to Assess in Determining Child's Best Interest for School Placement**

The child's safety and permanency plan shall 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 following:

- 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.
- 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](#) should be used to assist the service worker and school representative in determining the child's best interest for school placement. This form provides a series of questions that should be considered during the determination process. It documents compliance with federal law.

The service worker shall 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 made. Documentation of the best interest determination shall be maintained in both the LDSS' child case file and the school's student cumulative record. If a



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change in placement is determined to be in the child's best interest, the school representative shall send this documentation to the new school as part of the student's cumulative record.

### **Transportation for Child to Remain in the Same School**

The LDSS shall arrange for transportation and payment of transportation expenses for any child to remain in the school in which he or she was enrolled prior to placement in the child's new residence, if it has been jointly determined to be in the child's best interest.

Funding for 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; and
- State Pool Funds through the Comprehensive Services Act (CSA) for non-Title IV-E eligible children, consistent with state law and Community Policy and Management Team policies.

LDSS should consider 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 shall be made to specific providers to transport an eligible child. Types of providers and reasonable costs may include:

- Foster parents reimbursed at the State mileage rate.
- Friends, relatives and neighbors of the child or foster parent reimbursed at the State mileage 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 LDSS.
- Employees of child placing agencies and residential programs reimbursed at the State mileage rate.
- Public transportation paid at the established rate.

Individual providers reimbursed at the State mileage rate shall submit proof of actual miles driven to the LDSS.

### **Notification of New School if Child Changes School**

Within seventy two hours of placing the child in the new home, the LDSS or licensed child-placing agency in writing shall:

- Notify the principal of the child's new school of residence and the superintendent of the relevant school division of the need to enroll the child; and
- Inform the principal of the status of parental rights of the child's parents (§ [63.2-900.D](#) of the Code of Virginia).

LDSS should use the [Notice of Receiving Foster Care Services Form](#) to notify the school.





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### **Immediate Enrollment if Child Changes School**

The child shall be 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 on-going education.

- "Immediate" means 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 service worker should submit the [Immediate Enrollment of Child in Foster Care Form](#) to the school which provides all required information for school enrollment. LDSS 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, to the best of his or her 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 education continuity for the child and school.

When the timing of LDSS's presentment for immediate enrollment and LDSS' official notification of the need to enroll the child coincide, the [Immediate Enrollment of Child in Foster Care Form](#) may be used for both purposes. This form meets all LDSS' legal notification requirements. In such circumstance, copies of the completed form shall be provided to the school for the superintendent, or designee, and the principal.

Upon presentment, the new school shall immediately enroll the child 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 shall document reasons for the delay and attach this information to the Immediate Enrollment Form. (Please refer to VDOE – SUPTS. MEMO NO. 125, dated June 24, 2005 for previous guidance regarding school enrollment for children in foster care.)

The sending and receiving schools shall expedite the transfer of the student's record (§ [22.1-289](#) of the Code of Virginia).

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 shall 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).



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These documents include the child's:

- Birth certificate (§ [22.1-3.1.A](#) of the Code of Virginia);
- Social security number (§ [22.1-260.C](#) of the Code of Virginia);
- Proof of immunization (§ [22.1-271.2](#) of the Code of Virginia); and
- Preschool physical examination (§ [22.1-270](#) of the Code of Virginia).

The school shall retain the [Immediate Enrollment of Child in Foster Care Form](#) in the student cumulative record. The LDSS shall 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.

### **Resolving School Placement Disputes**

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

If the school representative and LDSS service worker do not agree on the child's best interest for school placement, the child should remain in the school in which the child was enrolled at the time of placement until the school placement issue is resolved. LDSS shall arrange for transportation and payment of transportation expenses for the child to remain in the same school.

The LDSS and the school should use the attached process for resolving the school placement dispute.





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### 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 \(1\) \(G\) \[42 USC 675\]](#))
- VDOE Superintendent's Memo #306-10, December 10, 2010
- VDSS Foster Care Manual, November 2010
  - Section 4.16 on determining child's best interest for school placement
  - Section 14.12 on funding transportation costs
  - Section 15.2 on travel of children in foster care
- VDSS Finance Guidelines Manual
  - Section 4.25, LASER Budget Line and Cost Code Descriptions, 811
- VDSS [Notice of Receiving Foster Care Services Form](#)
- VDOE and VDSS [Best Interest Determination for Foster Care School Placement Form](#)
- VDOE and VDSS [Immediate Enrollment of Child in Foster Care Form](#)

### Contact Information for Questions

**VDOE: Student Services Office:** (804) 225-2071

**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



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### **Procedure for Resolving School Placement Disputes**

1. If the school representative 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. During the resolution process, the student should *remain* 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 local school administrator should work together, review the best interest determination documentation, and resolve the dispute.
3. If the local school administrator and LDSS supervisor do not agree on the child's best interest for school placement, a written request should be submitted within the same five work days to the local school division superintendent (or designee) and the LDSS director (or designee) for a review of the best interest determination documentation. The written request should include documentation of:
  - 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.

The [Best Interest Determination for Foster Care School Placement Form](#) should be used.

4. Within ten workdays following the submission of a written request, the LDSS director (or designee) and the local school division superintendent (or designee) should review the request, the best interest determination documentation, and any additional information pertinent to the dispute. They should work together to resolve the dispute.
  - If the LDSS director (or designee) and the local school division superintendent (or designee) reach consensus regarding the child's best interest for school placement, the LDSS service worker and school representative should be informed of the decision.
  - If the two parties cannot agree, they should seek guidance and consultation from their respective state agencies. This request should be submitted within the ten day timeframe. The LDSS should submit this request to the Regional Permanency Consultants.



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5. After the state agencies work together to provide guidance and technical assistance to the involved local agencies, the school and LDSS, in consultation with the team, should resolve the dispute. The LDSS and school should make a determination as to whether the child should:
  - Remain in the same school; or
  - Change schools and enroll in the school of residence for the child's new residence, if remaining in the same school is not in the child's best interest. The service worker, school representative and the child's new school shall ensure the child is enrolled appropriately and immediately, with all educational records provided to the new school.
6. All written documentation shall be placed in the child's case file and available for any required federal reviews. It shall also be placed in the student's cumulative record.