

# Foster Care & Education

## *Issue Brief*

### WHEN SCHOOL STABILITY REQUIRES TRANSPORTATION: STATE CONSIDERATIONS<sup>1</sup>

#### Introduction

To make school stability a reality for children in foster care, some children will need transportation to the school they are attending when they are moved to a placement in a new school district or attendance area. States and localities must identify the agencies responsible for arranging and paying for that transportation. This issue brief focuses on **how to ensure children receive transportation to support school stability when in their best interest.**

Enacted in October 2008, the “Fostering Connections to Success and Increasing Adoptions Act of 2008,” (Fostering Connections) is a comprehensive law designed to promote permanent family connections and improve the lives of youth in the child welfare system. Among other important provisions, the Act requires child welfare agencies to create “a plan for ensuring the education stability of the child while in foster care.” The Act emphasizes the importance of school stability as well as the need for collaboration between child welfare and education agencies.

This brief is part of a series of materials designed to be used together to support all stakeholders in implementing the education provisions of the Fostering Connections Act. To access the full series, please visit [The Legal Center for Foster Care and Education's Fostering Connections Toolkit](#).

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<sup>1</sup> The Legal Center for Foster Care and Education would like to thank Dennis Blazey and Madelyn Freundlich, consultants for [FosteringConnections.org](#), for contributing significant time and expertise in editing this publication.

## Overview

1) Child welfare agencies must **ensure that children stay in the school in which the children were enrolled at the time of placement (unless it is not in the children's best interest to do so)**.

Therefore, child welfare agencies must **ensure that transportation is provided when needed**.

2) **Federal child welfare reimbursement dollars are available** to assist with school transportation costs, but **work must be done to determine how these reimbursements will be actualized** in each state and jurisdiction.

3) New federal child welfare education stability requirements apply to *all* children in care, even though federal child welfare reimbursement is only available for *some* children in care. Therefore, **additional federal or state funding is necessary to ensure transportation for *all* children in foster care who need to remain in a stable school placement**.

4) Child welfare agencies must **collaborate with education agencies on how transportation will be provided and funded**. Rather than child welfare and education agencies struggling over these questions each time a child needs school transportation, states and localities should develop official policies that work for both agencies and for all children with additional transportation needs.

5) Collaborating agencies must find approaches that are **flexible and that make clear which agency is responsible** for arranging transportation and/or paying transportation costs and under what circumstances.

6) **The dependency court has a critical role in ensuring school stability for children in foster care**. Judges must oversee that child welfare agencies meet their obligation to ensure school stability for children, including providing transportation when necessary. The court can play a critical role in promoting collaboration between child welfare and education agencies.



# What Child Welfare Law and Policy Currently Says About School Transportation: Background

## Child Welfare Federal Financing Basics

States receive federal child welfare funds from a range of sources<sup>2</sup> to support the child welfare services provided to children. By far the largest funding source is Title IV-E of the Social Security Act.<sup>3</sup> Title IV-E guarantees federal reimbursement to states for a portion of foster care costs. Title IV-E funds are used to provide foster care maintenance payments for children who are “IV-E eligible,”<sup>4</sup> as well as for administrative and training costs associated with the foster care program.

Foster care maintenance payments (FCMPs) are the costs associated with maintaining a child in a foster care placement, and include food, clothing, shelter, daily supervision, school supplies, and personal incidentals.<sup>5</sup> Foster care administrative costs cover case management and other items necessary for the proper and efficient administration of the Title IV-E state plan.<sup>6</sup> The federal government reimburses states for a portion of the foster care maintenance cost for eligible children at a set rate for each state (the Federal Medical Assistance Percentages or “FMAP rate”), which ranges from 50% to 83% of the costs.<sup>7</sup> The federal government reimburses states for a portion of the administrative costs at a set rate of 50% of the costs for all states.<sup>8</sup>

## Fostering Connections to Success and Increasing Adoptions Act

In 2008, Congress enacted the Fostering Connections to Success and Increasing Adoptions Act<sup>9</sup> (the Fostering Connections Act), which requires that child welfare agencies collaborate with local education agencies to ensure that children remain in the schools they were attending at the time of placement (unless to do so is not in their best interest).<sup>10</sup> Furthermore, the Fostering Connections Act provides that FCMP can include “reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement.”<sup>11</sup>

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<sup>2</sup> For a summary see ABA Child Law Practice Vol. 29, No. 3, *Federal Funding for Child Welfare: What You Should Know* (May 2010).

<sup>3</sup> 42 U.S.C. § 670 *et seq.*

<sup>4</sup> To be eligible for IV-E reimbursement, the child must meet all eligibility requirements under Title IV-E of the Social Security Act for foster care. For more discussion on what makes a child “IV-E eligible,” please refer to page 7.

<sup>5</sup> 42 U.S.C. § 675(4)(A).

<sup>6</sup> 42 U.S.C. § 674(a)(3).

<sup>7</sup> 45 C.F.R. § 1356.60; 42 U.S.C. § 1396d.

<sup>8</sup> 42 U.S.C. § 674(a)(3).

<sup>9</sup> Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. 110-351, 122 Stat. 3949 (codified as amended in scattered sections of 42 U.S.C.).

<sup>10</sup> 42 U.S.C. § 675(1)(G)(ii).

<sup>11</sup> 42 U.S.C. § 675(4)(A).



## Federal Child Welfare Policy Manual and Program Instruction Guidance

In 2007, prior to the Fostering Connections Act, the United States Department of Health and Human Services, Administration on Children and Families (ACF), confirmed in its Child Welfare Policy Manual (CWPM) that school transportation for a child to remain in the same school can be reimbursable as a Title IV-E administrative cost.<sup>12</sup> After the enactment of the Fostering Connections Act, the CWPM indicated that FCMP reimbursement can include transportation for the child to remain in the school and for the foster parent to travel to attend school conferences at the school in which the child is enrolled at the time of placement.<sup>13</sup> The CWPM also provides additional details on the types of school transportation that are allowable foster care administrative costs.<sup>14</sup> Specifically, the CWPM makes clear that transportation to extracurricular activities is an allowable administrative expense.<sup>15</sup> Finally, the CWPM states that transportation provided by a caseworker, foster parent, or a volunteer transporting a child is reimbursable as an administrative cost.<sup>16</sup>

Then, in July 2010, ACF released a Program Instruction (P.I.) that reaffirms many of the above clarifications from the CWPM, but also provides additional clarification on when school transportation is reimbursable. It states that FCMP can be used for school stability transportation when a child is initially placed and for all subsequent moves while the child is in care.<sup>17</sup> The P.I. gives the child welfare agency the discretion to determine what is “reasonable” transportation for purposes of FCMP reimbursability and clarifies that the cost of transportation can be included in the payment provided to the child’s care provider or may be a separate payment made directly to the transportation provider. Finally, the P.I. clarifies that these transportation costs can be claimed as either maintenance or administrative costs. (For additional discussion and analysis, see below and Appendices C and D).

### How Many Children in Care Will Require Transportation To Stay in The Same School?

#### Children Not Requiring Transportation

Not every child in foster care requires transportation to remain in their current school. As examples, the following categories of children will not require transportation:

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<sup>12</sup> 45 C.F.R. § 1356.60(c)(2); Child Welfare Policy Manual section 8.1, Q&A3 (Dec. 31, 2007).

<sup>13</sup> Child Welfare Policy Manual section 8.3B (Sept. 31, 2009).

<sup>14</sup> For a detailed summary and analysis of allowable IV-E administrative and foster care maintenance payments, see Appendix B.

<sup>15</sup> Child Welfare Policy Manual section 8.3B (Sept. 31, 2009).

<sup>16</sup> Child Welfare Policy Manual section 8.1B (Jan. 9, 2009).

<sup>17</sup> U.S. Dep’t of Health and Human Servs. Admin. for Children and Families, Guidance on Fostering Connections to Success and Increasing Adoptions Act of 2008, ACYF-CB-PI-10-11, 19 (July 9, 2010) (hereinafter “ACF Guidance”), available at [http://www.acf.hhs.gov/programs/cb/laws\\_policies/policy/pi/2010/pi1011.htm](http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2010/pi1011.htm).



**Children who are placed within the school boundaries:** A critical element of the Fostering Connections Act is that child welfare agencies must make a documented effort to place children within or close to their current school communities.<sup>18</sup> If child welfare agencies are successful in these required efforts, fewer children will need to change schools.

Some agencies use mapping tools and data to assess locations and distances to compare where children are being removed to where children are being placed, in relation to school boundary lines. In this way, agencies are able to identify the communities where greater emphasis should be placed on recruiting and retaining resource families. For example, Illinois uses a geographic information system (GIS) application called “SchoolMinder” that supports school stability. GIS technology helps identify available foster homes that are near the child’s current educational setting and the home from which the child was removed.<sup>19</sup>

**Children whose “best interest” dictates that they should be immediately enrolled in new schools:** The Fostering Connections Act specifically requires that “best interest” determinations be made when deciding whether a child should remain in the current school or move to a new school. While the presumption is that children remain in their school, when these best interest determinations are made thoroughly and thoughtfully, the decision for some children will be that it is in their best interest to be immediately enrolled in a new school. In these situations, no special transportation will be needed. For an important resource to help in making these best interest decisions, see *School Selection for Students in Out-of-Home Care* at [http://www.abanet.org/child/education/publications/school\\_selection\\_brief.pdf](http://www.abanet.org/child/education/publications/school_selection_brief.pdf).

**Children who have completed high school:** Students who have successfully graduated from high school will no longer need school transportation as they have completed their secondary education. Also, some youth will have received a GED and not be planning to obtain a regular high school diploma. A goal of the school stability requirements of the Fostering Connections Act is to provide youth with opportunities to remain in school or return to school. Of course, youth who have left but will hopefully reengage should be included in the numbers that may require transportation to achieve school stability.

### **Children Requiring Transportation at Minimal or No Additional Cost**

Some of the students requiring transportation can be transported for minimal or no additional cost. Here are some examples:

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<sup>18</sup> 42 U.S.C. § 675(1)(G)(i).

<sup>19</sup> For more information about implementation of the education provisions of the Fostering Connections Act in Illinois, including the “SchoolMinder” program, see the National Association of Public Child Welfare Administrators, *How States are Implementing the Fostering Connections Act*, available at <http://www.napcwa.org/Legislative/docs/Illinois.pdf>.



**Children in care who meet the definition of “homeless” children under the McKinney-Vento Act (McKinney-Vento):** When a child meets the definition of a “homeless child or youth” under the McKinney-Vento Act, he or she is entitled to school stability, including transportation provided by the education system when necessary for the child to stay in the “school of origin.”<sup>20</sup> Children and youth who are homeless include children living in emergency or transitional shelters, children abandoned in hospitals, unaccompanied homeless youth, and children who are “awaiting foster care placement.”<sup>21</sup> States and districts vary widely on their interpretation of children “awaiting foster care placement.”<sup>21</sup> For children in foster care eligible for McKinney-Vento protections, transportation will be arranged and funded through the education system.<sup>22</sup>

**Children who have transportation written into their IEPs because of legitimate special education needs:** When a child in care is eligible for special education services under the Individuals with Disabilities in Education Act (IDEA),<sup>23</sup> he or she must have an Individualized Education Plan (IEP) that outlines the child’s education needs and services, including related services. Transportation is a “related service” that must be provided to a child if the IEP team concludes that a child needs transportation to and from his or her special education program. Although transportation will not be added to the IEP for the sole purpose of preserving school stability, transportation for the child to attend his or her special education program may nevertheless support the child remaining in the current school.

**Children who live close to or can be dropped off at a bus stop proximate to the existing transportation system for the current school:** When students move across school district lines, the issue of transportation obviously becomes more complicated. However, there may be opportunities to transport the child to his or her current school using some or all of the school transportation system that is already in place. Good communication between the current and new school districts is critical. In 2009, Louisiana passed legislation to promote education stability for children in foster care.<sup>24</sup> Transportation is coordinated by both the Department of Social Services (DSS) and the school district in which the student is enrolled. DSS is responsible for arranging transportation of the child to a drop-off/pick-up point within the school district. The school district is responsible for transporting the child from the drop-off/pick-up point to the appropriate school and back to the pick-up point.

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<sup>20</sup> 42 U.S.C. § 11432(g)(1)(J)(iii).

<sup>21</sup> For a list of all states with an AFCP definition, see [http://www.abanet.org/child/education/publications/afcp\\_chart\\_5\\_11\\_10.doc](http://www.abanet.org/child/education/publications/afcp_chart_5_11_10.doc). For a factsheet detailing the overlap of McKinney-Vento and Fostering Connections, see [http://www.abanet.org/child/education/publications/qa\\_fc\\_and\\_mv\\_overlap\\_final.pdf](http://www.abanet.org/child/education/publications/qa_fc_and_mv_overlap_final.pdf).

<sup>22</sup> McKinney-Vento liaisons and State Coordinators are responsible for making determinations of eligibility for McKinney-Vento. For a list of all state coordinators, see <http://center.serve.org/nche/downloads/scontact.pdf>. To access a list of state homeless program websites and resources, see [http://center.serve.org/nche/states/state\\_resources.php](http://center.serve.org/nche/states/state_resources.php). For a factsheet detailing the overlap of the rights and responsibilities for child welfare and education agencies under McKinney-Vento and Fostering Connections, see [http://www.abanet.org/child/education/publications/qa\\_fc\\_and\\_mv\\_overlap\\_final.pdf](http://www.abanet.org/child/education/publications/qa_fc_and_mv_overlap_final.pdf).

<sup>23</sup> 20 U.S.C. §§ 1400 *et seq.*

<sup>24</sup> La. Rev. Stat. Ann. § 17:238.



**Children who move within the same school district and transportation across the district is available for other reasons:** Often, school districts have existing transportation options that allow students to be transported across the district (such as magnet schools, special education students, and McKinney-Vento routes). To meet a child's transportation needs, it may be necessary to add a bus stop to a preexisting bus route or reroute a school bus, steps that can often be taken without much difficulty or additional expense.

**Children who have a relationship with an adult whose existing commute complements the child's transportation need:** One way to solve the transportation puzzle is to identify all resources that can help transport the child. Engaging the youth in this search is critical. Individuals who are not the child's resource parent may nonetheless be able and willing to transport the child.

### **Calculating the Number of Children in Foster Care Needing School Transportation**

**Step #1: Take the total number of children in care**

**Step #2: Subtract the following:**

- minus # placed within the school boundaries
- minus # in their best interest to be immediately enrolled in new school
- minus # who have successfully completed high school
- minus # eligible under the McKinney-Vento Act
- minus # have transportation written into the Individual Education Plans (IEPs) because of legitimate needs under the Individuals with Disabilities Education Act
- minus # who can be transported by existing bus routes or commutes, without additional costs incurred

**The result EQUALS the total # of children who may need transportation to remain in their current schools with additional costs associated**

### **Children Requiring Transportation at a Cost**

Some children will need transportation provided at additional cost. The P.I. is very clear that cost should NOT be a factor in determining the best interest of the child for school selection purposes. Some examples of transportation with associated costs are:



- A foster parent, relative or other adult provides transportation but needs reimbursement for mileage
- An agency provides the youth or caretaker with bus passes or other public transportation vouchers
- An agency contracts with private transportation company to provide a bus/van/car
- A school district reroutes, or adds a bus to its fleet, to accommodate the transportation needs of children in foster care

## **How Can the Child Welfare Agency Use Title IV-E Dollars To Support School Transportation?**

The Fostering Connections Act states that child welfare agencies must *ensure* that children stay in the school in which the children were enrolled at the time of placement (unless it is not in their best interest to do so). Therefore, child welfare agencies must ensure that school transportation is provided when needed. Federal child welfare reimbursement dollars are available to assist with transportation costs, but work must be done to determine how these reimbursements will be actualized in each state and jurisdiction. The following sections detail considerations for state and local child welfare agencies as they determine how to use Title IV-E dollars to support school transportation for children in care. Of course, this determination is only a portion of the equation. The mandate is to ensure school stability for all children in care, and federal reimbursement is available only for IV-E eligible children.

### **What is IV-E Eligibility and How Do You Determine Which Children Qualify?**

To be eligible for IV-E reimbursement, the child must meet all eligibility requirements under Title IV-E of the Social Security Act for foster care, including that the child has been:

- Removed from an income-eligible home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child,
- Placed and in the care of the child welfare agency, and
- Placed with a licensed foster family home or in a licensed child-care institution.

It is important to know the percentage of children in foster care who are IV-E eligible in your state, a percentage often called the state “penetration rate,” as the percentage varies widely across states. Although the state’s percentage will not provide an absolute number of IV-E eligible children, it will provide a good estimate of how much IV-E reimbursement may be available. For a resource that provides guidance on state IV-E eligibility percentages, see <http://cwla.org/advocacy/childreninfostercarereport08.pdf>, based on 2008 estimates.





## Important Transportation Considerations

There are other considerations to keep in mind in structuring the transportation model that is most cost-effective and appropriate, including determining whether it is best for your state to classify school stability transportation as a FCMP or an administrative cost.

### 1) What is the State's FMAP Rate?

The FMAP rate provides you with the percentage of reimbursement your state can claim from the federal government related to IV-E foster care maintenance. To determine your state's rate, see <http://aspe.hhs.gov/health/fmap11.pdf>. The reimbursement rate for IV-E administrative costs is 50% for all states. Therefore, states that have FMAP rates much higher than 50% will have a strong incentive to include transportation as a FCMP. Alternatively, states that have FMAP rates closer to 50% will need to determine whether using FCMP or administrative costs is most cost-effective and efficient.

### 2) Should the State Claim School Transportation as a FCMP or an Administrative Cost?

The Fostering Connections Act allows FCMP to be used to pay for “reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement,” and the P.I. reiterates that Title IV-E administrative dollars can also be used for this purpose. These provisions allow the child welfare agency considerable flexibility in determining how to classify the cost of school transportation. For many states, the FMAP rate is well above 50%; these states will probably prefer to claim school transportation costs as FCMP. States with 50% or only slightly higher FMAP rates may prefer to claim school transportation costs as administrative costs given the less rigorous documentation and other requirements.

### 3) Can FCMP be used for costs regardless of whether the child is in an initial or subsequent placement?

Yes. States can claim FCMP reimbursement for transportation to the school in which the child was enrolled at the time of placement at ANY point in the case, regardless of how many placement changes have occurred.<sup>25</sup>

### 4) How do child welfare agencies determine what is considered “reasonable travel”?

The Fostering Connections Act provides that FCMP includes “reasonable travel,” yet the law does not define this term. The P.I. makes clear that the child welfare agency has the discretion to determine what is “reasonable,” and mentions cost, distance and length of travel as examples of factors

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<sup>25</sup> ACF Guidance at 20.



that an agency can consider.<sup>26</sup> Whether it is in a child's *best interest* to remain in the current school is a different question than whether transportation qualifies as "reasonable" for purposes of federal reimbursement. The P.I. is very clear that cost should NOT be a factor in determining the *best interest* of the child for school selection purposes.<sup>27</sup> Child welfare agencies should not be unduly restrictive in determining whether a particular cost or travel is "reasonable" for purposes of federal reimbursement; transportation that is not determined to be "reasonable" by the child welfare agency will not be eligible for IV-E reimbursement.

#### **5) Are child welfare agencies permitted to include school transportation costs in a FCMP paid to the child's provider OR as a separate payment directly to the transportation provider?**

Yes, child welfare agencies are permitted to do either.<sup>28</sup> There is great flexibility in deciding the most efficient way to provide school transportation. Furthermore, the FCMP reimbursement may be claimed to cover school transportation costs incurred by non-child welfare agencies such as school districts that provide school stability transportation

## **From Law and Policy to Practice: Effective State and Local Implementation of School Transportation**

### **Required Elements of Successful State Implementation**

Although the Fostering Connections Act has highlighted the responsibility of the child welfare agency to ensure school stability and continuity for children in foster care, there are obstacles to ensuring that children in foster care have the transportation they need to remain in stable school placements. Successful state implementation requires:

- **Patience.** Although the Fostering Connections Act is a large step towards ensuring school stability and continuity for children in foster care, all stakeholders must recognize that change takes time. State and local child welfare agencies are working diligently to implement *all* of the provisions of the Fostering Connections Act; education stability is just one of many requirements. Although the law requires collaboration across education and child welfare agencies, many education agencies are not yet even aware of the law. Successful state implementation requires equal parts diligence and patience.

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<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*



- **Understanding.** Both child welfare and education agencies must have a clear understanding of what federal law requires. State and local agencies must review their laws and policies to determine to what extent they have already addressed school stability and transportation issues and which issues need to be addressed. Currently, there is widespread and understandable confusion about the overlap between the McKinney-Vento Act and the Fostering Connections Act and the differences in the responsibilities and requirements under each. There also is confusion about the specific aspects of the Fostering Connections Act, especially around what transportation costs are and are not covered by existing law. Successful state implementation requires a solid understanding of the current legal requirements as well as the areas of ambiguity or need for additional state or federal clarification.
- **Communication and relationships.** Clear communication and collaboration across systems are essential to making school transportation a reality. The Fostering Connections Act and the P.I. make clear that collaboration across child welfare and education agencies is required. Joint protocols and policies will be needed to ensure that all parties are following the same procedures.
- **Philosophy.** A culture shift must occur within agencies to embrace the presumption that children remain in their current schools (unless not in their best interest), even when their foster care placements change. In both the child welfare and education systems, the prevailing assumption has been that when a child's living situation changes, so does the school. Work must be done so that staff's assumption now favors school stability – that is that a child's school remains stable UNLESS it is in the child's best interest to change schools.

## Conclusion

States must analyze carefully what transportation is needed to keep children in care in the same schools and must develop state-specific plans. Although there is some federal law and guidance regarding IV-E reimbursement for school transportation, each state must address its own Title IV-E financing structure and policies to determine what will work best there. Since only IV-E eligible students are eligible for federal reimbursement for transportation, states must tackle both the state match contribution for IV-E eligible children and transportation costs for non IV-E eligible children to effectively meet the law's school stability requirements. These are challenging tasks, but if undertaken in a spirit of cooperation, and with an understanding of the importance of school stability to children in foster care, school stability can be achieved.



## APPENDIX A

### State Implementation Examples

Many states have been working to address school transportation challenges since the passage of the Fostering Connections Act. Below are some examples of implementation efforts from across the country. We are always interested in hearing more from the field about how school transportation is being provided and how costs are being met. Please share your stories, challenges, promising practices, and examples by emailing us at [cceducation@staff.abanet.org](mailto:cceducation@staff.abanet.org).

#### **Example #1: Connecticut**

In the spring of 2010, Connecticut passed Senate Bill 31, which went into effect July 1, 2010. The law established that, when it is in the child's best interest to remain in his or her school of origin (SOO):

- The Connecticut Department of Children and Families (DCF) and the board of education for the SOO will **collaborate on developing a transportation plan** for a child.
- DCF will **be responsible for any additional or extraordinary cost of the transportation.**
- DCF will **maximize federal reimbursements** under Title IV-E for the costs of transporting IV-E eligible children.
- DCF and the board of education for the SOO shall consider **cost-effective, reliable and safe transportation options.**

Importantly, approximately **\$3 million state dollars** have been allocated to support child welfare agencies in providing transportation to keep children in the SOO. This feat is remarkable given the economic climate of the state and will be significant in making school stability a reality for children in foster care in Connecticut. The state child welfare agency has developed a Request for Proposals to seek bidders for a contract to provide the transportation needed for children in care. Proposals must include several elements, including a transportation coordinator to oversee the identification and provision of the transportation. Proposals must also provide various transportation options that can be provided, including buses with monitors, various sized passenger vans, and private cars.

For the full text of SB 31 see <http://www.cga.ct.gov/2010/ACT/PA/2010PA-00160-R00SB-00031-PA.htm>.

#### **Example #2: Minnesota**

In Minnesota, a county administered child welfare system, the Minnesota Department of Human Services released a Bulletin to address implementation of the education provisions of the Fostering Connections Act, including details about reimbursement of transportation costs. The goal of the Bulletin is to provide counties with the maximum allowable flexibility to encourage maximization of the federal reimbursement. The Bulletin states that:



- Child welfare agency should **work with foster parents** to provide transportation
  - The general rate paid to the foster parent can be increased,<sup>29</sup> or
  - The foster parent can receive a separate payment.
- Payments **can be made to another provider**
  - Reimbursement can be to the local school district
- **Retroactive reimbursement** is allowed dating back to October 2008, when the Fostering Connections Act passed and allowed FCMP to be used to reimburse school transportation.
- The child welfare agencies will **update their data systems** to allow for future electronic submissions for reimbursements.

For full details of the DHS Bulletin 10-68-05 issued June 14, 2010 see *Education Stability for Children in Foster Care* at

[http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16\\_150905.pdf](http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_150905.pdf).

### **Example #3: Butte & San Diego Counties, California**

Two California counties – Butte and San Diego – have developed collaborative approaches to ensure that children and youth in foster care have needed school transportation. Both counties respond to children’s transportation needs on a case-by-case basis, using McKinney-Vento funds when available. Otherwise, costs are distributed among various parties.

#### San Diego

- Transportation costs are usually **split equally between the school** that the child attends and the school district where the child is living.
  - **Social workers generally coordinate transportation** for individual children and youth, which may take the form of reimbursing foster parents for mileage, paying for public transportation, or allowing child welfare or school district personnel to provide transportation.
  - Transportation costs are **reimbursed by the education agencies**.

#### Butte County

- Relies on a **five-way cost sharing plan** among the Butte County Office of Education, the Children’s Service Division of the Department of Social and Employment Services, the foster family agency, the school district of attendance, and the school district where the child is living.
  - The logistics are **coordinated through a central person in the Office of Education** who determines the type of transportation needed.<sup>30</sup>

<sup>29</sup> In Minnesota, this was done by increasing the “Difficulty of Care” level of care.

<sup>30</sup> California Foster Youth Education Taskforce, *Memo: Transportation to the School of Origin* (2010).



For more information, please contact Jesse Hahnel, Director of the National Center for Youth Law's FosterEd Initiative, or visit the FosterEd Initiative's website at [http://www.youthlaw.org/child\\_welfare/foster\\_youth\\_education\\_initiative/](http://www.youthlaw.org/child_welfare/foster_youth_education_initiative/).

#### **Example #4: Philadelphia, Pennsylvania**

In Philadelphia, the Department of Human Services (DHS), the School District of Philadelphia (School District), and the Family Court collaborate to ensure school transportation for all children in foster care in accordance with the State's definition of "awaiting foster care placement"<sup>31</sup> and the Fostering Connections Act. DHS, through its Education Support Center, and the School District have developed a **joint protocol** to address the transportation needs of children in care on a student-centered and practical basis. The protocol considers such factors as the distance from the school, the temporary or permanent nature of the living placement, and existing school district policies. The protocol specifically provides:

- **For children placed in new home within a 1.5 mile radius of the current school:** The foster parent/provider is responsible for taking the child to school and is eligible for reimbursement.
- **For children placed outside a 1.5 mile radius of the current school:** The School District pays through one of the following methods as determined by DHS staff in consultation with school counselors:
  - Public transit and reimbursement by the District is explored first.
  - DHS requests that the school's guidance counselor submit a busing form (through sixth grade). Arranging busing may take up to two weeks. During this interim period, the foster parent provides transportation and is reimbursed through the provider agency.
  - DHS submits a request to the guidance counselor to provide a public transportation pass (seventh grade and up).
- **For emergency, overnight, respite, or temporary placements:** The child automatically remains in school of origin with transportation provided by the School District.
- **For complex cases (e.g., a DHS caseworker and school counselor disagree as to how transportation should be provided or there is no available bus route for a particular child):** Either a caseworker or school counselor consults with the DHS Education Support Center to resolve the matter.

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<sup>31</sup> Pursuant to guidance issued by Pennsylvania's Department of Education, "awaiting foster care placement" is defined as including children in: shelters; emergency, interim or respite foster care; kinship care; evaluation or diagnostic centers or placements for the sole purpose of evaluation; and, in addition "local school officials should consult with their county children and youth agencies whenever necessary to determine if a child meets the definition of awaiting foster care placement, including, on a case-by-case basis, whether a child who does not clearly fall into one of these categories is nevertheless a child "awaiting foster care placement." For more information, see Pennsylvania Dep't of Educ., Basic Education Circular, *Education for Homeless Youth* (February 29, 2008). <http://www.iu5.org/sites/curriculum/20092010%20Meetings/2010-03-25/Homeless%20BEC%20February%202010.pdf>.



- The DHS Support Center trains all caseworkers and school counselors on this protocol and continues to work with DHS and the School District staff on an ongoing basis.

For more information, please contact Maura McInerney at the Education Law Center or visit [www.elc-pa.org](http://www.elc-pa.org).



## APPENDIX B

### STATE IMPLEMENTATION QUESTIONS: TRANSPORTATION

**States should ask themselves the following questions to determine (1) how they can best ensure school stability for children in foster care by providing transportation; and (2) how Title IV-E foster care maintenance payment and administrative dollars can be used to reimburse school transportation costs.**

- ✓ How many children are in out-of-home care?
- ✓ What percentage of children are placed within *school* boundaries? Within school *district* boundaries?
- ✓ What percentage of children are placed at far distances or there are other reasons that it is not in their best interest to remain in the school they attended at the time of placement?
- ✓ What percentage of children in care have already successfully completed high school?
- ✓ What is the state or district's McKinney-Vento policy for children in care and/or the definition of children "awaiting foster care placement" under McKinney-Vento?
- ✓ What percentage of children in care with IEPs have transportation listed as a related service? What percentage of those children already receives transportation services that can address school stability needs?
- ✓ What are the state and school district policies for transporting *all* students within a school district? Between school districts?
- ✓ Are there any state laws, policies, or programs that impact education stability for children in care or other highly mobile children?
- ✓ What percentage of children in care are IV-E eligible?
- ✓ What is the state's FMAP rate (the percent of children eligible for federal reimbursement for IV-E maintenance costs)?
- ✓ How are the IV-E maintenance payments structured? Can transportation costs be added to the core maintenance payment? Can a separate payment be made?
- ✓ How are IV-E administrative payments structured?
- ✓ Does it make sense to claim transportation costs as administrative or maintenance costs?
- ✓ Who will actually provide the additional transportation needed so that children can remain in their current schools? Will a number of transportation options be available?
- ✓ When schools or other entities provide additional transportation, is there a formula that allows for calculation of the specific costs for that IV-E eligible child?
- ✓ If the state is a IV-E waiver state, do provisions of the waiver impact how these payments can be calculated or made?





## APPENDIX C<sup>32</sup>

### FEDERAL REIMBURSEMENT FOR SCHOOL TRANSPORTATION COSTS: FUNDAMENTAL PRINCIPLES OF IMPLEMENTATION

As states evaluate the most cost-effective manner to provide school transportation so that children can remain in their current schools, the following “principles of implementation” can serve as a guide for determining whether costs may be reimbursed as Title IV-E foster care maintenance payments or administrative costs.

- 1) A child welfare agency must determine children’s IV-E eligibility to receive IV-E reimbursement. IV-E *reimbursability* of child-specific costs is conditioned upon establishing the connection between the purpose of the cost and the term foster care maintenance payment and/or an allowable administrative activity.
- 2) The cost of transporting IV-E eligible children to school to receive education instruction will only be IV-E reimbursable if the cost is associated with transporting the child to “the school the child was enrolled in at the time of placement.”
- 3) In those instances where a cost can be treated as either a foster care maintenance expense, or as an administrative expense, the choice of how the cost is treated for claiming rests with the State. While the State has the flexibility to determine how the cost is treated, once it makes that determination, the State must take care to ensure that all such costs are subsequently treated, and claimed, consistent with that determination. An inconsistent treatment of costs - that is claiming like costs as administration on some occasions and foster care maintenance on others - will create greater audit risk for the State.
- 4) Costs which HHS has determined to be included within a IV-E eligible child's basic/core foster care maintenance payment cost may not be treated as a separate foster care maintenance nor claimed as an administrative cost. For example, the cost of transporting a IV-E eligible child to a location to participate an extra-curricular activity that substitutes for "daily supervision" is treated as a foster care maintenance payment and is already included in the child's basic/core foster care maintenance cost.

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<sup>32</sup> The Legal Center for Foster Care and Education would like to thank Dennis Blazey for authoring Appendices C and D, as well as contributing significant expertise throughout the document around Title IV-E transportation financing. For more information or questions on Appendices C and D, please email [FosteringConnections.org](mailto:FosteringConnections.org) at [info@fosteringconnections.org](mailto:info@fosteringconnections.org).



## APPENDIX D

### FEDERAL IV-E REIMBURSEMENT FOR SCHOOL TRANSPORTATION COSTS: COST MATRIX

IV-E reimbursability is complex, and there are a number of considerations for states as they determine the best model for providing and seeking federal reimbursement for necessary school stability transportation. The following matrix outlines the variety of reimbursable transportation categories as well as whether the transportation can be reimbursed as a Title IV-E FCMP or administrative cost. Furthermore, for those categories of transportation that qualify for reimbursement as FCMP or administrative, each is broken down by whether it can be reimbursed as a separate payment. This analysis is drawn from federal law, regulations, and guidance available as of November 1, 2010, especially the Fostering Connections Act and July 2010 P.I. For more information, or questions, please email [FosteringConnections.org](mailto:FosteringConnections.org) at [info@fosteringconnections.org](mailto:info@fosteringconnections.org).

Category of Transportation Cost	Allowable as FCMP?	Separate item of expense?	Allowable as Administrative cost?	Separate item of expense?
Cost of transporting a child to a school in which the child was enrolled at the time of placement	YES	YES	YES <sup>i</sup>	YES
Cost of transporting a child to a school other than the school in which the child was enrolled at the time of placement	NO	NOT APPLICABLE	NO	NOT APPLICABLE
Cost for foster parent to attend school conferences in the school in which the child is enrolled at the time of placement	YES	YES	YES	YES
Cost for foster parent to attend school conferences in a school other than the in the child was enrolled at the time of placement	NO	N/A	UNKNOWN <sup>ii</sup>	N/A
Cost to transport a child to a school in which the child was enrolled at the time of placement to attend extracurricular activities that substitute for daily supervision	YES	NO	NO <sup>iii</sup>	N/A



Category of Transportation Cost	Allowable as FCMP?	Separate item of expense?	Allowable as Administrative cost?	Separate item of expense?
Cost to transport a child to a school other than the school in which the child was enrolled at the time of placement to attend extracurricular activities that substitute for daily supervision	YES	NO	NO <sup>iv</sup>	N/A
Cost to transport a child to a school in which the child was enrolled at the time of placement to attend extracurricular activities that do not substitute for daily supervision	NO	N/A	YES	YES
Cost to transport a child to a school other than the school in which the child was enrolled at the time of placement to attend extracurricular activities that do not substitute for daily supervision	NO	N/A	UNKNOWN <sup>v</sup>	N/A

<sup>i</sup> May be treated as a foster care maintenance cost without regard to the location of the placement setting with regard to the school's enrollment area. May be treated as an administrative cost if the placement setting is located outside the school's enrollment area.

<sup>ii</sup> There is no federal guidance directly on point. However, costs related to this activity are arguably in support of the case plan and case management administrative function and thus allowable to be treated as administration.

<sup>iii</sup> This cost is presumed to be included in the basic foster care maintenance payment and may not be claimed as a separate cost. Because the cost is presumed to be a foster care maintenance cost, it cannot be treated as an administrative cost.

<sup>iv</sup> Because this cost is associated with the provision of supervision, it is treated as a foster care maintenance cost without regard to the child's enrollment status in the school at the time of the child's placement. This cost is presumed to be included in the basic foster care maintenance payment and may not be claimed as a separate cost. Because the cost is presumed to be a foster care maintenance cost, it cannot be treated as an administrative cost.

<sup>v</sup> There is no federal guidance directly on point. However, if a direct nexus can be established between the child's case plan and the extracurricular activity, then any cost associated with the transportation is arguably in support of the case management administrative function and allowable for treatment as an administrative cost.

