



# **Ensuring Educational Stability for Children in Foster Care: Best Interest Determinations and Immediate Enrollment**

August 24, 2016

# TODAY'S PRESENTERS

- **Stevi Steines**

Chief Deputy, Administration on Children, Youth and Families,  
U.S. Department of Health and Human Services

- **Mary Myslewicz**

Casey Fellow, Office of Innovation & Improvement, U.S.  
Department of Education

- **Lessons from the Field**

- **Joan Rock**, Resource Coordinator for Family Services,  
Vermont Agency of Human Services
- **Andrea Burton**, Social Worker, Vermont Agency of  
Human Services
- **Amy Woolard**, Attorney & Policy Coordinator, Legal Aid  
Justice Center
- **Patricia Popp**, State Coordinator, Project HOPE - Virginia

# TODAY'S AGENDA

- Provide an overview of the federal framework for ensuring educational stability for children in foster care
- Unpack the Every Student Succeeds Act provisions related to best interest determinations and immediate enrollment
- Learn lessons from early implementation in Vermont and Virginia
- Q&A

# EDUCATIONAL STABILITY: A TIMELINE

**October  
2008:**

The Fostering  
Connections  
to Success &  
Increasing  
Adoptions Act

**June  
2016:**

ED/HHS  
Foster  
Care  
Guidance  
Released

**December  
2016:**

ESSA  
Foster  
Care  
Provisions  
Take Effect

**December  
2015:**

The Every  
Student  
Succeeds Act  
(ESSA)

**Aug./Sept.  
2016:**

ED/HHS  
Foster  
Care TA  
Webinar  
Series

# KEY ESSA PROVISIONS

- Children in foster care remain in the school of origin, unless it is determined that it is not in his or her best interest
- If it is not in the child's best interest to remain in the school of origin, the child must be immediately enrolled in the new school even if they don't have the required documentation.
- LEAs must collaborate with child welfare agencies (CWAs) to develop and implement clear written procedures for how transportation will be provided, arranged, and funded for the duration of a child's time in foster care.
- Each SEA must designate a point of contact (POC) for CWAs. LEAs must also designate a POC for CWAs if the corresponding CWA notifies the LEA, in writing, that it has designate a POC.

# MCKINNEY-VENTO PROVISIONS

- The phrase “awaiting foster care placement” will be removed from the McKinney-Vento Homeless Assistance Act’s definition of homeless children and youth.
  - For non-covered states, this change is effective 12/10/16
  - For covered states--that is, States that define “awaiting foster care placement” in statute or regulations--this change is effective 12/10/17
- After the effective date, youth “awaiting foster care placement” must be served under ESSA
- Some children in foster care may still be eligible for McKinney-Vento services (e.g., youth who are living in transitional shelters or motels)

# JOINT GUIDANCE

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**Access the joint guidance here:**

<http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>



# Best Interest Determinations & Immediate Enrollment



# BEST INTEREST DETERMINATIONS

## ESSA REQUIREMENTS

SEAs must provide assurances that:

- Children in foster care enroll or remain in the school of origin unless there is a determination that it is not in his or her best interest to attend the school of origin
- The best interest determination must be based on all relevant factors, including:
  - Appropriateness of the current educational setting
  - Proximity to the school in which the child is enrolled at the time of placement

# BEST INTEREST DETERMINATIONS

## GUIDANCE PROVISIONS

- School of origin is the school that the child was enrolled at the time of initial placement
  - If the child's foster care placement changes, the school of origin would then be the school in which the child is enrolled at the time of the placement change.
- If it is determined to be in their best interest, children have the right to remain in their school of origin for the duration of their time in foster care
- Encourages states to continue to prioritize educational stability once child exits foster care

# BEST INTEREST DETERMINATIONS

## GUIDANCE PROVISIONS

- SEAs and State CWAs should establish uniform guidelines for local agencies
- LEAs and local CWAs should collaborate to develop a joint process for making best interest determinations
- Should consider multiple student-centered factors
  - Transportation costs should not be a factor
- Should consult child, if appropriate, and adults who have meaningful relationships with child

# BEST INTEREST DETERMINATIONS

## GUIDANCE PROVISIONS

- Develop mechanism for where and when best interest determination will occur
- If parties cannot come to agreement, ultimate decision should reside with the CWA
- SEAs and LEAs should coordinate with CWAs to develop a dispute resolution process to address disagreements
- To the extent feasible and appropriate, a child must remain in his or her school of origin while awaiting a decision to reduce the number of school moves

# IMMEDIATE ENROLLMENT

## ESSA REQUIREMENTS

SEAs must provide assurances that:

- If it's not in the child's best interest to stay in his or her school of origin, the student must be immediately enrolled in the new school, even if the child is unable to produce records normally required for enrollment
- The enrolling school shall immediately contact the school last attended to obtain relevant academic and other records

# IMMEDIATE ENROLLMENT

## GUIDANCE PROVISIONS

- A child can't be denied enrollment because they don't have proper documentation
- A child should also be attending classes and receiving appropriate academic services
- SEAs and LEAs should review policies to remove barriers to immediate enrollment



# Lessons from the Field

# LESSONS FROM THE FIELD: VIRGINIA

## GUEST PRESENTERS

### **Amy Woolard**

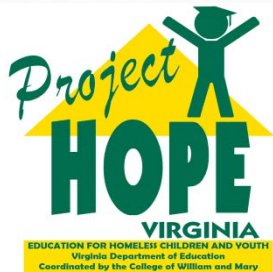
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LEGAL AID  
JUSTICE CENTER



### **Patricia A. Popp, Ph.D.**

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# A BRIEF HISTORY OF FOSTERING CONNECTIONS EDUCATION LAW IN VA

## Va. Code 22.1-3.4

- Previously addressed immediate school enrollment of students in foster care & transfer of records (2005):
  - Provisions were similar to the Fostering Connections Act's intent but were vague and permissive, not mandated
  - Some school divisions were explicitly or implicitly putting up barriers to enrollment, especially for youth in group homes
- Amended effective July 1, 2011 to mirror the Fostering Connections Act in terms of educational stability:
  - Integrated interagency workgroup recommendations into both child welfare and school practice and code (explicitly made education part of foster care plan)
  - Created mandate for the process and called for collaborative process

# DEVELOPMENT OF JOINT GUIDANCE

A workgroup was convened in 2010 between advocates, representatives from state and local education and child welfare agencies, and the courts. The initial work took nearly two years:

## Full Resource Page:

[http://www.doe.virginia.gov/support/student\\_family/foster\\_care\\_students/index.shtml](http://www.doe.virginia.gov/support/student_family/foster_care_students/index.shtml)

- VDOE/VDSS Joint Guidance on School Placement for Children in Foster Care (Revisions & Superintendent's Memos)
- Best Interest Determination for Foster Care School Placement Form
- Immediate Enrollment of Child in Foster Care Form

## Appendix A



### Best Interest Determination for Foster Care School Placement Form



The student remains in the school at time of placement unless the answers to the following questions suggest a change of placement is in the child's best interest.

1. What is the child's permanency goal and plan?
2. What is the expected date for achieving the permanency goal?
3. How many schools has the child attended? How many schools has the child attended this year? How have the school transfers affected the child emotionally, socially, academically, and physically?
4. What are the safety considerations related to school placement?
5. Which school does the student prefer? Why? How was this information obtained?
6. How does the child feel about any upcoming moves?
7. Which school do the birth parents or prior custodians as appropriate, and the child's current placement provider prefer? Why?
8. What school(s) do the child's siblings attend?
9. How is the child performing academically?
10. Does the child have a current IEP or a 504 Plan?

3 | This document shall be kept in child's case file and cumulative school record.

## Appendix A



### Best Interest Determination for Foster Care School Placement Form



11. If the student has a current IEP, is specialized transportation identified as a related service?
12. Does the child participate in other specialized instruction? (e.g., gifted program, career and technical program)
13. What are the child's academic/career goals? Does one school have programs and activities that address the unique needs or interests of the student that the other school does not have?
14. Describe the child's ties to his or her current school, including significant relationships and involvement in extracurricular activities?
15. Would changing schools affect the student's ability to earn full academic credit, participate in sports or other extra-curricular activities, proceed to the next grade, or graduate on time? If so, how?
16. Would the timing of the school transfer coincide with a logical juncture, such as after testing, after an event that is significant to the child or at the end of the school year?
17. How would the length of the commute to school impact the child?

Attach any supporting documentation used in making this determination of best interest. (The following is checklist of sample documents that may be considered. The list is not intended to be exhaustive.)

- Report cards
- Progress reports
- Achievement data (test scores)
- Attendance data
- IEP or 504 Plan
- E-mails or correspondence from individuals consulted
- Disciplinary referrals
- Health reports/records

4 | This document shall be kept in child's case file and cumulative school record.

# JOINT DETERMINATION OF A CHILD'S BEST INTEREST

- As quickly as possible (e.g., within 3 business days), LDSS and school division representative or IEP shall jointly determine child's best interest for school placement
- Presumption: Child will remain in same school, unless contrary to child's best interest. LDSS should already have taken educational needs into account for home placement
- Meeting is intended to be a collaborative process that integrates the child's needs and preferences
- Specific language included around child's participation in this process



## Immediate Enrollment of Child in Foster Care Form



### Student Information

Date of Joint LDSS/School Best Interest Determination for School Placement:

Date Student Presented for Enrollment:

Receiving School/School Division:

Student Name\*\*:

Age\*\*:

DOB:

Sex:

Student Testing Identifier:

Foster Parent/Placement Name:

Phone:

Foster Parent/Placement Address:

DSS/Child-Placing Agency Name:

Date Placed with Agency:

Agency Contact Name:

Phone:

Last School Attended/School Division:

Current Grade:

Information on status of parental rights:

Does student have IEP? Yes No Unknown

Does student have 504 plan? Yes No Unknown

Parent for Special Education purposes, if applicable:

The local department of social services (LDSS) shall coordinate with the school to ensure that the child in foster care is immediately and appropriately enrolled 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 675D]). The sending and receiving schools shall expedite the transfer of the student's record (§ 22.1-289 of the Code of Virginia).

This document provides all information required for the LDSS to notify the school and for the school to immediately enroll the child in compliance with §§ 63.2-900.D and 22.1-3.4 of the Code of Virginia. The three asterisked (\*\*) areas meet these minimal requirements for enrollment. All other information helps ensure a smooth transition for the child and school.

"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. "Enrollment" means the child is attending classes and participating fully in school activities. 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. If enrollment is delayed until the second school day after presentment, school officials shall document reasons for the delay and attach these reasons to this form.

(Please complete other side)

(Print on yellow paper for easy identification)



## Immediate Enrollment of Child in Foster Care Form



### Enrollment Certifications\*\*

I am a representative of the agency having legal custody of the above-named child. This child meets the definition of a child placed in foster care in § 22.1-3.4 of the Code of Virginia; therefore, I am presenting the child for *immediate* enrollment.

To the best of my knowledge, \_\_\_\_\_ has/has not (circle one) been expelled from school attendance at a private school or public school division of the Commonwealth of Virginia, or in another state, for an offense in violation of school board policies relating to weapons, alcohol or drugs, or for the willful infliction of injury to another person.

To the best of my knowledge, \_\_\_\_\_ has/has not (circle one) been found guilty of or adjudicated delinquent for any offense listed in § 16.1-260.G of the Code of Virginia or any substantially similar offense under the laws of any other state, the District of Columbia, or the United States or its territories.

To the best of my knowledge, \_\_\_\_\_ is in good health and is free from communicable or contagious disease. If documentation of a physical exam, birth certificate, social security number, and/or immunization record is unavailable at time of enrollment, they must be provided to the school within 30 days of enrollment.

Custodian/Guardian Signature

Date

### Release of Information

I, \_\_\_\_\_, as legal custodian/guardian of \_\_\_\_\_, hereby authorize schools, their agents and employees in possession of this student's educational records to release such information as necessary for the purposes of his/her educational enrollment at \_\_\_\_\_ (school of enrollment).

Custodian/Guardian Signature

Date

### 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



# ROLE OF THE COURT

The judge, guardian ad litem (GAL), and any advocates should act as ongoing safeguards to the process:

- At every hearing, should ask about educational placement, stability, and attendance
  - If there are changes, should ask for an explanation
- Consult GAL if the student's educational needs are unmet
- Ensure the education decision-maker is clearly identified for the court

# RECENT ISSUES IN IMPLEMENTATION

Subsequent guidance documents and memos have addressed common practical issues post Fostering Connections:

- Transportation: Who will fund it? How will it be provided?
- Students eligible under the Individuals with Disabilities Education Act (IDEA)
- Foster Care Education Liaisons in local child welfare agencies
- Maintaining school of origin until BID is completed

# NEXT STEPS FOR VIRGINIA

Subsequent guidance documents and memos have addressed common practical issues post Fostering Connections:

- Transition to Title I from VA's Student Services Department
- Gathering/analyzing achievement data for youth in foster care
- Interagency/inter-department collaboration at state, regional, and local levels



# LESSONS FROM THE FIELD: VERMONT

## GUEST PRESENTERS

### Joan Rock

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### Andrea Burton

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# VERMONT'S EDUCATIONAL BEST INTEREST DETERMINATION PRACTICE

## Today's Highlights

- Benefits to the children
  - A case study of two siblings in elementary school
- Benefits of using the Best Interest Determination Tool
- Benefits of Collaboration
- Benefits of regular meetings and conversations
- Normalizing the process

# THE BEST INTEREST DETERMINATION TOOL

There are 8 areas of inquiry on the Tool:

1. What does the child think?
2. What does the child's primary family think?
3. What is the distance to the school of origin?
4. How long has the child been connected to this school?
5. What are the safety considerations?
6. What is the impact on the child's social, emotional and/or behavioral well-being?
7. What is the potential impact on academics?
8. What is the child's permanency plan?

**Education Best Interest Determination Evaluation Form**  
Available online at: <http://vtfutres.org/>

Child's Name: \_\_\_\_\_

DCF Family / Child #: \_\_\_\_\_ Child's Education ID#: \_\_\_\_\_

**Instructions:**  
This process is based on the assumption that a student should remain in their current school\* *unless* the considerations on the following pages indicate that a *change of school placement is in the child's best interest.*

- This form is to be filled out at the child's date of placement and each time there is a change in living arrangement.
- Individuals with insight into the child's educational best interest are encouraged to participate in a BID meeting or conversation.
- You may use relevant information from recent meetings (i.e., EST, CSP, IEP or 504).

\**Current school* is defined as the school the child is attending *prior* to a change in living arrangement.

Current School and Supervisory Union/School District: \_\_\_\_\_

Previous School(s): \_\_\_\_\_

Current Grade: \_\_\_\_\_ Date of Best Interest Determination Meeting: \_\_\_\_\_

**Please list who was consulted and/or who attended a meeting about BID.**

Name	Title / Role	Contact Information
	Child	
	Child's Primary Parents	
	Child's extended family as appropriate	
	Kin/Foster Family	
	DCF	
	Educator	
	Educator	
	GAL	
	Service providers	
	Educational surrogate	
	Other	

**Access the full BID Tool:**

<http://vtfutres.org/grades-toolkit/screen-for-success/>



# CASE STUDY: CHILDREN'S TIMELINE

- Custody: November 2014
  - Placement in new town
  - BID completed
  - Results: Remain in school of origin through the school year
  
- New School Year 2015-2016
  - BID completed over the summer
  - Results: Children remain in school of origin
  
- Permanency Plan Changed: December 2015
  - Placement changed to permanent home in new town
  - BID completed
  - Results: Maintain in school of origin through current school year
  
- May 2016
  - BID completed
  - Results: Transition to new school in town of residence

# CASE STUDY: NORMALIZING TRANSITION TIME

- Pre-adoptive Mom arranged for the siblings to participate in the Step-Up Day offered by the new school.
- Pre-adoptive Mom initiated the planning for a good-bye party at the end of this school year.
- Pre-adoptive Mom identified therapists in the new school.
- Pre-adoptive Mom enrolled them in softball this spring in their new town.
- Pre-adoptive Mom did as much work with the school enrollment paperwork as she could.

# PROCESS

- Team Members: Caregivers, primary family, children, teachers, Special Education Coordinator, LEA, Service providers, GAL, Education Surrogate, Social Worker
  
- Social worker convenes a meeting
  - Individual phone calls
  - Conference calls
  - Face to face meetings
  
- Follow-Up Meetings:
  - Revisit BID
  - Review children's needs and services
  - Address disagreements

# BENEFITS OF USING THE TOOL, MEETINGS, & CONVERSATIONS

- To establish the appropriateness of educational stability for each child
- Sharing of relevant information about the children and their plans
- Collaborative Planning
- Discussion regarding transportation
- Logistical problem solving
- Facilitates difficult conversations when there is disagreement
- Emphasizes the children's needs are the priority



# Questions for Panelists?





# Technical Assistance

# JOINT ED-HHS WEBINAR SERIES

Webinar Topic	Date	Location
An Overview of the ED/HHS Joint Guidance	7/27/16	<a href="http://www.fostercareandeducation.org/AreasofFocus/EducationStability.aspx">http://www.fostercareandeducation.org/AreasofFocus/EducationStability.aspx</a>
Points of Contact	8/17/16	<a href="https://1sourcevents.adobeconnect.com/p9u646javei/">https://1sourcevents.adobeconnect.com/p9u646javei/</a>
Best Interest Determination & Immediate Enrollment	8/24/16	Coming soon!
Transportation	8/31/16 2-3pm ET	Coming soon!
Dispute Resolution and Collaboration	9/7/16 2-3pm ET	Coming soon!

**Access the joint guidance here:**

<http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>

# QUESTIONS ABOUT IMPLEMENTATION?

## CONTACT US!

### SEAs & LEAs

- Send questions to ED's ESSA mailbox:  
[essa.questions@ed.gov](mailto:essa.questions@ed.gov)

### CWAs

- The Children's Bureau (CB) provides technical assistance through the Capacity Building Center for States
  - For additional information, reach out to your Center for States Liaison - <https://capacity.childwelfare.gov/map>



### For additional information, please visit our websites:

- ED's Every Student Succeeds Act page - <http://www.ed.gov/essa?src=rn>
- HHS' Educational Stability for Children and Youth in Foster Care page - <https://www.childwelfare.gov/topics/systemwide/service-array/education-services/meeting-needs/educational-stability/>



**Thank you!**