Every Student Succeeds Act – ESSA Toolkit Updates
A Decade of Law Improvements Leading to a Shared Responsibility to Support Educational Stability for Youth in Foster Care

- Fostering Connections Act 2008
- Child and Family Services Improvement & Innovation Act 2011
- Every Student Succeeds Act (ESSA) 2015
- New York Education Law 3244 2018
Education Law 3244 – Education of Children in Foster Care (Effective 2018)

• Establishes the rights of students placed, or moved, in foster care to:
  o Continue attending school of origin if determined to be in their best interest, or, if not, attend school near foster care placement,
  o Immediate enrollment, and
  o Transportation, if necessary to attend school of origin
  o Points of contact for LEA and LDSS
Definitions to Know

**Best Interest Determination (BID)**

• A collaborative process between LEAs and LDSSs, from which the LDSS will determine, based on factors relating to child’s best interest, whether it is in child’s best interest to remain in the school of origin.

• BID is completed upon child’s entry into foster care + upon any change in foster care placement.

**State Level POC**

NYSED POC: studentsupportservices@nysed.gov
OCFS POC: ocfs.sm.cwcs.essa@ocfs.ny.gov

**Local POC**

• Lists for LDSS & LEA points of contact for ESSA can be found on both the OCFS and NYSED websites:
### Definitions

**LDSS**
- Local department of social services
- Child Welfare governmental entity whose local commissioner of social services has care and custody/guardianship of a child
- Each LDSS must designate a POC

**LEA**
- Local Education Agency
- A public board or other authority legally constituted within a State for either administrative control or direction of...public elementary schools or secondary schools
- Each LEA must designate a POC
Definitions

District of Origin

The school district within the state of New York in which the student was attending a public school or preschool on a tuition-free basis or was entitled to attend at the time of placement into foster care.
Definitions

**School of Origin**
- The public school the child attended or would have been eligible to attend based on the child’s last residence at the time of placement into foster care or change in foster care placement
- School of origin can include a preschool, charter school or a special act school district

**District of Attendance**
- The school district wherein the student in foster care is enrolled, or is entitled to attend, after a best interest determination is made

**District of Residence**
- The public school district where the child lives due to foster care placement. While the district of residence is defined as different from the district of origin, in some cases, it may be the same as the district of origin
Schools and Foster Care Placements

• A BID is made to determine if the child will continue to attend the school of origin or will be enrolled in the district of residence

• The district educating the child becomes the district of attendance and is responsible for providing transportation

• The district of origin remains unchanged for the duration the child is in foster care, even though it may not be the district of attendance or residence

• If the child is placed with a relative via an Article 10 direct placement, the child is NOT in foster care. In these cases, this provision of law does not apply, and the child should attend the school district where they are living with the relative
Best Interest Determination (BID)

- BID to determine whether the child will attend school of origin OR a different school located in the school district of residence (DOR)

- Must be made in consultation with relevant stakeholders, such as:
  - School personnel from school of origin AND the DOR or district of attendance
  - Birth parents
  - Foster/Adoptive parents
  - The child (if developmentally able)
  - Attorney for the child
  - Caseworker, planner, manager, supervisor
  - Any other relevant person, such as committee on special education representative (if applicable)

- The LDSS is responsible for making the BID
BID factors to consider

• Child’s age and preference
• Grade level and how long child has been connected to school of origin
• Proximity of foster care placement to child’s school of origin, including impact on length of time spent travelling to and from school each day
• Impact of potential school change on child’s social, emotional and/or behavioral well-being
• Permanency plan
• Length of stay in care

The cost of transportation may not be a factor in the determination
A child is entitled to attend the designated school that has been determined to be in their best interest for the duration of their time in foster care regardless of foster care placement changes.

Upon discharge from foster care, a child is entitled to continue to attend this school until end of the school year in which child is discharged from foster care AND for one additional year if that year is the final year in the school.
School Notification

Child in Foster Care Sample Notification Letter

SAMPLE INITIAL NOTIFICATION LETTER/EMAIL FROM DSS TO LEAs:

Instructions:

- Within (2) days of entry into foster care or a change in foster care placement that could impact educational placement and BID is required
- Send one (1) copy via letter, fax or email to school principal and one (1) copy to file. Subject line of correspondence should indicate “CONFIDENTIAL: READ IMMEDIATELY REGARDING STUDENT IN FOSTER CARE IN YOUR SCHOOL” and if sent via email, please send using “High Importance” indicator.

DATE: Click or tap to enter a date.

Dear: Click or tap here to enter text.

The purpose of this letter is to notify you that one of your students has:

☐ entered foster care or
☐ undergone a change in foster care placement.

This change for the student, Click or tap here to enter text. may impact their educational placement.

We are seeking your input on their educational best interest and school placement. This determination is required, under both state and federal law, and will help inform whether this student remains in their school of origin (your school) or immediately enrolls in a new school.

School placement changes have a profound impact on academic success and overall well-being, so your consideration of this student’s educational needs is important.

Please respond to this letter by providing us with the name and contact information for the appropriate person at your school who can provide information about this student. We will be following up to contact this individual in preparation for making a best interest decision that must be made in the next five (5) days.

Please feel free to contact me with any questions.

Thank you,

Case Worker
LDSS/Agency
Phone
Email
### New LDSS 2999

Notable changes:
- **Section A**-condensed address, phone fields
- **Section B**-records the school pursuant to BID
- **Section C**-signatures
- **Section D & E**-BID process
LDSS 2999 Section D and E

Section D - BEST INTEREST DETERMINATION

• Documents considered for BID: report cards and progress reports; achievement data (test scores); attendance data; disciplinary records; special education records; e-mail or correspondence from individuals consulted

• Name of parties who participated in the BID process: child, birth parent, caseworker, foster parent, attorney for the child, CPSE/CSE chair, pupil personnel services staff

Section E - BEST INTEREST DETERMINATION SUMMARY OF RATIONALE (Summarize the key factors influencing the determination)
LDSS POC Responsibilities

- Notify the LEA’s POC that a child in the school district has entered foster care or changed foster care placements (see Sample Notification Letter)
- Collaborate with LEA’s to make the BID
- Complete the Child in Foster Care School Notification – LDSS 2999 form
- Ensure the child is enrolled in school immediately if the BID determines the child should attend a new school
- Develop any interim transportation plan necessary
- Work with the LEA POC at the school of attendance to develop the individual transportation plan
LEA POC Responsibilities

- Upon receipt of LDSS notice, District of Attendance notifies appropriate school personnel (especially transportation personnel) to ensure the educational stability of the student within two business days.

- District of Attendance immediately contacts the last school attended (if applicable) to obtain education records.

- District of Attendance completes and implements the *Individual Transportation Plan for a Student in Foster Care* – within two to three business days for in-district transportation, or five to seven business days for out-of-district transportation of notification of best interest determination.
Two Transportation Forms are required

- **Local Transportation Agreement for Students in Foster Care**
  - Required to be prepared by LDSSs and LEAs every two years
  - Outlines local transportation procedures
  - Provides both agencies with key contacts for foster care issues, information to be provided by the LEA and LDSS in support of the BID, and additional supports available for students in foster care

- **Individual Transportation Plan for a Student in Foster Care**
  - Developed on a case-by-case basis
  - Specifies the plan for an individual student
  - Provides key contact information
  - Plan must be signed by the districts involved in the provision of or cost of transportation
Transportation

The LDSS and the school district of attendance will split 50/50 the costs remaining after deducting from the total cost:

1. the cost of what the school district would otherwise spend to transport a non-foster care student to their assigned school; and

2. the amount up to 50 miles received in state transportation aid for miles travelled
Transportation

A child in foster care is entitled to receive transportation to attend the school of origin.

The District of Attendance must provide the necessary transportation.

Transportation is aidable up to 50 miles each way.
Flow Chart: Foster Care Educational Placement Decision Process

- Child Enters Foster Care OR Changes Foster Care Placement

Within 2 days LDSS POC notifies appropriate school personnel of entry into foster care or change in foster care placement and then the LEA POC seeks input from appropriate school personnel to ensure the student’s educational stability.

LDSS and school(s) collaborate on BID process, resulting in LDSS-2999 form

- LDSS collects information from student, parents, and other possible BID members
- LEA engages appropriate school personnel in BID process.
  - If student has an IEP, include a member of IEP team.
  - If student is ELL, include relevant staff member.

BID process completed within 10 days of placement/change in placement
- LDSS provides copy of completed LDSS-2999 form to involved school districts

Student remains in school of origin
- OR
- Student enrolls in district of residence - now designated as district of attendance

School district develops and implements transportation plan
- LDSS notifies district of attendance of student’s new residence and need to enroll
- LDSS case worker provides district of attendance any missing documentation

- District of Attendance
  - Immediately enrolls student
  - Makes written request to school where student’s records are located for copy of records

- Sending school expedites (within 5 days) transfer of records to district of attendance
- District of attendance develops individual transportation plan (within 2-3 business days for in-district transportation, or 5-7 business days for out-of-district transportation)
Transportation-Foster Home to SOO (not DOO) – over 50 miles - Example A

Step 1
A: Distance from the BiD school of attendance to the foster care placement (one-way) - 55
B: Distance [in district] from school to district boundary - 20
C: Distance from boundary [out of district] to school of attendance (transportation aid up to 50 miles one-way) - 35
D: Mileage over 50 miles (not aid able and divided 50/50) - 5

Step 2
Calculate Cost per Trip (cost per mile x number miles one way) - $2.09

Step 3
Determine applicability of State Transportation Aid Ratio, and calculate remaining shares for School District and LDSS - 90%

Step 4
Calculate Costs

Step 5
Calculate Number of Trips per Day and Number of Days
- Trips Per Day - 4
- Days per school year - 30
- Total Trips - 120
<table>
<thead>
<tr>
<th>Miles in District Per Day</th>
<th>Cost of In-District Miles (Aidable)</th>
<th>Aid Amount for In-District Miles (90%)</th>
<th>LEA’s Cost of Miles in District per day</th>
<th>LDSS Cost of Miles in District per day</th>
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<tr>
<td>80</td>
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<th>Cost of Out-of-District Miles (Aidable)</th>
<th>Aid Amount for Out-of-District Miles (90%)</th>
<th>Remaining 10% to be Split Between LEA and LDSS</th>
<th>LEA Portion of the Remaining 10%</th>
<th>LDSS Portion of the Remaining 10%</th>
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<th>Miles Over 50 Per Day (Unaided)</th>
<th>Cost of Miles Over 50 Per Day (Unaided)</th>
<th>LEA Portion of the Unaidable Cost</th>
<th>LDSS Portion of the Unaidable Cost</th>
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<tr>
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<td>NYSED Transportation Aid</td>
<td>$376.20</td>
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<tr>
<td>LEA’s Total Expenses</td>
<td>$50.16</td>
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<tr>
<td>LDSS’s Total Expenses</td>
<td>$33.44</td>
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Transportation-Foster Home to SOO (not DOO) – under 50 miles- Example B

<table>
<thead>
<tr>
<th>Example B</th>
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<tbody>
<tr>
<td><strong>Step 1</strong></td>
<td><strong>A:</strong> Distance from the BID school of attendance to the foster care placement (one-way) 10</td>
</tr>
<tr>
<td></td>
<td><strong>B:</strong> Distance [in district] from school to district boundary 10</td>
</tr>
<tr>
<td></td>
<td><strong>C:</strong> Distance from boundary [out of district] to school of attendance (transportation aid up to 50 miles one-way) 0</td>
</tr>
<tr>
<td></td>
<td><strong>D:</strong> Mileage over 50 miles (not aided and divided 50/50) 0</td>
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<tr>
<td><strong>Step 2</strong></td>
<td>Calculate Cost per Trip (cost per mile x number miles one way) $2.15</td>
</tr>
<tr>
<td><strong>Step 3</strong></td>
<td>Determine applicability of State Transportation Aid Ratio, and calculate remaining shares for School District and LDSS 90%</td>
</tr>
<tr>
<td><strong>Step 4</strong></td>
<td>Calculate Costs</td>
</tr>
<tr>
<td><strong>Step 5</strong></td>
<td>Calculate Number of Trips per Day and Number of Days</td>
</tr>
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<td></td>
<td><strong>Trips Per Day</strong> 4</td>
</tr>
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<td><strong>Days per school year</strong> 22</td>
</tr>
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<td></td>
<td><strong>Total Trips</strong> 88</td>
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<td># of Miles Each Way</td>
<td># of Miles Per Day</td>
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<td>Miles over 50 per Day (Unaided)</td>
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<td>NYSED Transportation Aid</td>
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<tr>
<td>LEA’s Total Expenses</td>
<td>22</td>
</tr>
<tr>
<td>LDSS’s Total Expenses</td>
<td>22</td>
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Transportation - Foster Home Changes and SOO changes - Example C

A student was living with his family and attending school in District A. The student was placed into Foster Care custody. District A is the District of Origin.

District B is Foster Care Placement 1. District B becomes District of Residence 1. BID is School 1 in District B. District B is the School of Attendance. School 1 is the School of Origin.

District C is Foster Care Placement 2. District A is still District of Origin. District C becomes District of Residence 2. BID is School 2 in District C. District C becomes the new District of Attendance. School 2 becomes the School of Origin.

District D is Foster Care Placement 3. District A is still District of Origin. District D becomes District of Residence 3. BID is School 2 in District C. District C remains the District of Attendance. School 2 remains the School of Origin.
<table>
<thead>
<tr>
<th>School of Origin Example</th>
<th>Dist. B</th>
<th>Dist. C</th>
<th>Dist. D</th>
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<tbody>
<tr>
<td><strong>Step 1</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A: Distance from the BID school of attendance to the foster care placement (one way)</td>
<td>10</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>B: Distance [in district] from school to district boundary</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>C: Distance from boundary [out of district] to school of attendance (transportation aid up to 50 miles one-way)</td>
<td>0</td>
<td>0</td>
<td>13</td>
</tr>
<tr>
<td>D: Mileage over 50 miles (not aidable and divided 50/50)</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Step 2</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Calculate cost per trip (cost per mile x number miles one way)</td>
<td>$2.09</td>
<td>$2.09</td>
<td>$2.09</td>
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<tr>
<td><strong>Step 3</strong></td>
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<td></td>
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<tr>
<td>Determine applicability of state transportation aid ratio, and calculate remaining shares for school district and LDSS</td>
<td>90%</td>
<td>73%</td>
<td>84%</td>
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<td><strong>Step 4</strong></td>
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<tr>
<td>Calculate Costs</td>
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</tr>
<tr>
<td><strong>Step 5</strong></td>
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<td></td>
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<tr>
<td>Calculate number of trips per day and number of days</td>
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<tr>
<td>Trips per day</td>
<td>4</td>
<td>4</td>
<td>4</td>
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<tr>
<td>Days per school year</td>
<td>20</td>
<td>15</td>
<td>60</td>
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<tr>
<td>Total trips</td>
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<td>240</td>
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<td># of Miles Each Way</td>
<td># of Miles per Day</td>
<td>Cost per Mile</td>
<td>Total Cost per Day</td>
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</tr>
<tr>
<td>15</td>
<td>60</td>
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<td>Miles in District per Day</td>
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<td>LEA's Cost of Miles in District per day</td>
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<td>Aid Amount for Out of District Miles (84%)</td>
<td>Remaining 16% to be Split Between LEA and LDSS</td>
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<td>8</td>
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<td>Miles over 50 per Day (Unaidable)</td>
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<td>LEA Portion of the Unaidable Cost</td>
<td>LDSS Portion of the Unaidable Cost</td>
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<td>0</td>
<td>$2.09</td>
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NYSED Transportation Aid $105.34 Per Day
LEA’s Total Expenses $18.74 Per Day
LDSS’s Total Expenses $1.34 Per Day
Dispute Resolution

• Both the Fostering Connections Act and ESSA require coordination among agencies to ensure the educational stability of children in foster care. Given these coordination requirements, the relevant agencies should make every effort to reach agreement regarding the appropriate school placement of children in foster care.

• Each LDSS and LEA should involve their local POCs, who can seek additional input and guidance from their immediate supervisor and others within the LDSS and/or LEA to attempt to resolve the disagreement at the local level.
Next Steps/Items to Review

- Do you have a Local Transportation Agreement?
  - If you need assistance in developing one, please refer to the sample transportation agreement in the toolkit
- Does every child in foster care have a completed BID?
- How is the district of origin notified for children not yet of school age?
- How is the impact to the child considered when completing the BID with regard to distance and length of time to transport student back to the school of origin? Cost cannot be considered, but these factors both can and should be considered
- Has the district of residence been consulted regarding specific program availability for the child? (i.e.-BOCES)
- Review the changes to the LDSS-2999 Form and when to use the new school notification form