

# FOSTER CARE GUIDE

(Updated 10/30/20)

## ABSTRACT

The Every Student Succeeds Act (ESSA) of 2015 mandates that local educational agencies and child welfare agencies collaborate to support educational stability for children in foster care and otherwise grant these students the opportunity to achieve at the same levels as their peers. Research shows that students who change schools frequently have lower test scores, earn fewer credits, are more likely to be retained, and are less likely to complete high school than students whose school placements are stable. This guidance document sets forth policies and procedures to limit educational disruption by ensuring that children who enter the foster care system or change placements remain in their school of origin unless it is determined that doing so would not be in their best interests. In addition, it outlines requirements regarding educational record access and credit transfers, as well as parent/foster parent communication with respect to such matters as absenteeism, special education needs, and disciplinary action. Please note that specific provisions pertaining to children in foster care also appear in Chancellor's Regulations A-101 and A-750.

## I. DEFINITIONS

- A. Students in foster care in New York City are in the care and custody, or custody and guardianship, of the Commissioner of the Administration for Children's Services (ACS). Foster care means 24-hour substitute care for children placed away from their birth or adoptive parents or guardians and for whom the child welfare agency has placement and care responsibility. This includes, but is not limited to, children and youth awaiting placement at the Children's Center, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, Youth Reception Centers, residential facilities, Rapid Intervention Centers, child care institutions, and pre-adoptive homes.
- B. School of origin means the school the student attended at the time of placement into foster care, or the school in which the student was last enrolled, including a preschool program. However, once a best interest determination has concluded that the child should transfer to a new school, any schools in which the child was previously enrolled can be requested and will be considered, pending eligibility and seat availability.
- C. School of residence means the school that is zoned for the address at which the child is living while in foster care or the school(s) that other students living in that area are eligible to attend.
- D. Designated Liaison refers to the school employee assigned to facilitate communication between the foster care agency and the school regarding the appropriate school setting for a child in foster care.

## II. NOTIFICATION OF FOSTER CARE PLACEMENT

- A. Within one school day of a child's placement in a foster home or change in foster care placement, the foster care agency will submit a notification letter to the school's Designated Liaison requesting that the student's address be updated in Automate the Schools (ATS) and soliciting timely input from school personnel knowledgeable about the child, including the Tiered Response Protocol Point Person (grades 3K-8), regarding the impact of a school change on the child's academic and social well-being. The Designated Liaison shall gather information

from relevant school personnel to complete the School Input Form and will return it to the foster care agency as soon as possible, and within three (3) school days of receipt of the form.

- B. If a child or youth is awaiting placement at the Children’s Center, a Youth Reception Center, or another pre-placement facility, the assigned ACS caseworker shall notify the school as outlined above and arrange for school transportation. See Section VIII below for further discussion of transportation.
- C. When updating the student’s address in ATS, the school shall retain contact information for the birth/adoptive parent in addition to recording the contact information for the foster parent, if any. Schools can learn how to record parent and foster parent information on the ATS Wiki here: [Update Parent-Adult Information - PARU](#). This resource gives information on how to add an adult without deleting old information.

### III. PARENT COMMUNICATION

- A. The birth/adoptive parent of a child in foster care retains the right to continue to receive information about their child’s academic and behavioral progress and to make all educational decisions for the child unless the foster care agency/foster care parent presents a court order to the school indicating otherwise. The birth/adoptive parent is the parent for special education decision-making purposes and must be contacted for consent to all special education evaluations and services. However, when a surrogate parent has been appointed for the student, the parent has designated a person in parental relation pursuant to General Obligations Law §5-1551, or a judge has named someone else to provide consent, that individual must be contacted to provide consent in the same manner as that of a birth/adoptive parent. See the [Special Education Standard Operating Procedures Manual](#) (SOPM) beginning at the section **Definition of a Parent** for more information.
- B. If a student in foster care is subject to disciplinary action, the school shall provide notice in accordance with the terms of Chancellor’s Regulation A-443 to both the foster parent and the birth/adoptive parent, unless the foster care agency/foster parent presents a court order to the school terminating the parents’ rights or otherwise limiting their ability to participate in school meetings or hearings. The birth/adoptive parent retains the right to appear at the suspension hearing.

### IV. ACCESS TO AND RELEASE OF INFORMATION IN STUDENT RECORDS

To facilitate effective collaboration on educational planning for students in foster care, schools will release the educational records of child welfare-involved students as follows ([Policy on Academic Records](#)):

- A. As set forth below, a Child Protective Services worker must receive access, as provided for by subdivision 1 of section 425 of the Social Services Law, to all student records relating to a child named in a report of suspected child abuse or maltreatment, including IEPs and evaluations as applicable.
- B. The Uninterrupted Scholars Act of 2013 permits the sharing of student education records with foster care agency caseworkers and relevant staff at the state or local child welfare agency (for example, ACS), without a signed release from the parent or eligible student. This practice supports effective implementation of the student’s case plans and ensures that the student’s education needs are met.
  - 1. Upon receipt of a letter from the foster care agency confirming that the student is in care with their agency, the school, CPSE, or CSE must release the records to individuals authorized to access the child’s case plan, including:

- The child's foster care agency case planner
- Foster care agency supervisors
- Any other individual from ACS or the foster care agency who has access to the child's case plan (e.g., an agency Education Specialist, Tutor, Advocate, or other individual charged with the coordination of education services for the child). The representative must present identification from their agency and an official letter explaining what they are requesting.

## V. SCHOOL SUPPORT AND TRAINING

- A. ESSA Point of Contact- In accordance with the Every Student Succeeds Act and New York State Education Law, the Department of Education is required to designate a citywide point of contact for children and youth in foster care. The Citywide Coordinator for Child Abuse and Maltreatment Prevention has been so designated.
- B. Designated Liaison- In accordance with Chancellor's Regulation A-750, each school's Child Abuse and Maltreatment Prevention and Intervention Team will designate a staff member to serve as a liaison with respect to child welfare matters (referred to as the Designated Liaison). DOE suggests that in K-8 the designee for the Tiered Response Protocol be the Designated Liaison. There is a required annual training for Designated Liaisons.
- C. NYC Borough/Citywide Offices
  1. The Borough Director for Student Services is responsible for supporting schools in responding to child welfare matters. In particular, the Borough Director for Student Services is responsible for: a) serving as a liaison with the DOE Citywide Coordinator for Child Abuse and Maltreatment Prevention, the ACS Office of Education and Employment Initiatives, and foster care agencies; b) establishing a working relationship with the ACS Office of Education and Employment Initiatives, foster care agencies and other service providers to improve communication and services for school staff, parents and students; and c) providing ongoing support and training on foster care to school administrators and Designated Liaisons. Student Services Directors/designees will be trained through the yearly Designated Liaison training. There will also be more in-depth training which will occur during different times throughout the school year.
  2. The ACS Office of Education and Employment Initiatives is available to coordinate ACS staff participation in school-based training. Training requests may be sent to [education.unit@acs.nyc.gov](mailto:education.unit@acs.nyc.gov).
  3. The Borough Director for Student Services is also responsible for ensuring that schools receive and review lists of students in foster care and take appropriate action, in accordance with Section IX.
  4. Office of Safety and Youth Development - Citywide Coordinator for Child Abuse and Maltreatment Prevention. Schools should first seek support from the NYC DOE Borough/Citywide Offices. If additional support and/or resources are required, contact the ESSA Point of Contact.

## VI. SCHOOL ENROLLMENT

Students in foster care who change foster care placements are entitled to attend their school of origin, even if they move to another school zone, district, city, or state, unless a determination is made that it is not in their best interest to do so.

The determination of the child's best interest involves consideration of child-centered factors, which may include: the proximity of the foster care placement in relation to the current school, the preference of the child and/or birth or adoptive parent or person with educational decision-making rights, the number of school disruptions the child has already experienced, the school placement of the child's sibling(s) or relatives, and the effect of a school transfer, including the impact of the commute on the child.<sup>1</sup> The determination should be made by ACS, in collaboration with the DOE, with input from the school of origin, the foster care agency, the foster parent, the child, and the birth or adoptive parent or person with educational decision-making rights, as appropriate.

Children in foster care are not required to meet the threshold for a travel hardship as laid out in Chancellor's Regulation A-101 in order to transfer to a new school.

- A. Within one school day of a child's placement in a foster home or change in foster care placement, the foster care agency will contact the Designated Liaison in the school in which the child is currently enrolled to solicit input regarding the factors listed above. This feedback will be factored into the best interest determination as described above.
- B. If it is determined that it is in the best interest of the student to remain in the school of origin, the foster care agency will send a Best Interest Determination Transmittal Form to both the school and the ACS Office of Education and Employment Initiatives and will collaborate with these entities to ensure that transportation is provided, arranged, and funded.
- C. If it is determined that it is in the best interest of the student to change schools, ACS Office of Education and Employment Initiatives will contact the Office of Student Enrollment to request a transfer, providing the Best Interest Determination Transmittal Form as supporting documentation. If a foster parent or foster care agency employee appears at a Family Welcome Center seeking a school placement for a student in foster care without a Best Interest Determination Transmittal Form indicating that the student should change schools, and that student is already enrolled in a NYCDOE school, the Family Welcome Center shall contact ACS Office of Education and Employment Initiatives and confirm that they have authorized a school transfer for the student before effectuating a transfer for the student. If a foster parent or foster care agency employee attempts to register a student in foster care in their zoned school without a Best Interest Determination Transmittal Form indicating that the student should change schools, the school shall contact ACS Office of Education and Employment Initiatives and confirm that they have authorized a school transfer before enrolling the student.
- D. The student should be immediately enrolled in the new school even if they cannot produce records normally required for registration and enrollment. The new school shall immediately contact the school last attended by the child to obtain relevant academic and other records.
- E. The determination as to whether a student should remain in the school of origin or change schools shall be made whenever a student enters foster care or moves to a new foster care placement.
- F. Nothing in this section shall preclude a student in foster care from accessing the transfer and admissions options outlined in Section IV of Chancellor's Regulation A-101.
  1. Subject to the provisions of Chancellor's Regulation A-101, a student in foster care, once enrolled in a school, can remain in that school through its terminal grade, even after the

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<sup>1</sup> **Any concerns related to provision of special education services must be addressed via the NYCDOE's existing processes. Schools should be referred to their Borough Director of Special Education for support. A transfer should not be requested because the current school is not provided required special education services.**

- student is discharged from foster care.
2. Newly enrolled children in foster care (i.e. new to NYCDOE school system) can be enrolled without a Best Interest Determination.
  3. Children who enter or change foster care placements and seek a safety, medical, or guidance transfer are to be transferred in the same manner as their peers not in foster care.

## VII. COMPARABLE SERVICES

Students in foster care, including students with disabilities, must be provided with services comparable to services offered to other students in the school, including educational services for which the child meets the eligibility criteria, such as compensatory educational programs for the disadvantaged, e.g., Title I, and educational programs for students with disabilities and for multilingual learners, programs in vocational education, programs for the gifted and talented, and school meal programs.

Every effort must be made to ensure that students in foster care who change schools or school districts, especially in the middle of a term, receive credit for work they have completed in a prior school. Schools must maintain procedures for the timely request and evaluation of transcripts from previous institutions to ensure that students are programmed for needed courses and exams. For students who transfer between NYCDOE schools or programs, academic records should transfer automatically. If the student's prior academic sequence does not align with the sequence at the receiving school, the receiving school should use transcript information, including course history, titles, and codes, to program students for the course(s) that best cover the remaining learning standards in a sequence.

Principals **must** grant transfer credit for all credits awarded by any New York State registered public or nonpublic high school, including registered high schools at Residential Treatment Centers (RTCs), Residential Treatment Facilities (RTFs), and Rapid Intervention Centers (RICs) that frequently enroll students in foster care. For students transferring from non-registered New York State schools, schools outside New York State, schools outside the United States, and home schools, students are entitled to credits so long as their transcript and other records indicate that the work is consistent with NYSED's commencement-level learning standards and is of comparable scope and rigor to that which would have been done in the school awarding the credit. For assistance evaluating a student's transcript or prior education records and awarding transfer credits to new entrants, refer to the [Transfer Student Toolkit, transfer credit guidance documents](#), or contact your [Academic Policy point](#) for additional information.

## VIII. TRANSPORTATION

All students in foster care are eligible for free transportation, either by MetroCard or by school bus, to and from school, as set forth below. The foster care agency will notify the school of the student's current address and will coordinate with the school.

Students who are final discharged from foster care are entitled to transportation to their school of origin for the remainder of the school year and for one additional year if that additional year constitutes the terminal grade in the building.

### A. MetroCard

1. Students in foster care are exempt from grade and distance requirements and are eligible for a full fare student MetroCard as their form of transportation to and from school.

2. Parents and foster parents of students in 3-K through 12th grade may receive a MetroCard upon request to bring their children to and from school, or if traveling to a DOE school food pick up location to access school meals on days when the students are involved in remote learning.
3. MetroCards for parents and foster parents are available from the student's school.
4. If DOE has issued a student MetroCard but public transportation is not a practical option for the student, the parent/s or foster parent/s should contact the foster care agency to request alternative transportation.

**B. Busing**

1. Students receiving curb-to-school busing as an IEP recommendation will continue to receive this service as their form of school transportation. If the student requires IEP-recommended specialized transportation and is residing at a new address, the parent, foster parent or foster care agency will notify the school of the new address and the school will contact their school Transportation Liaison or CSE to begin or change transportation arrangements. This information will come to OPT directly once it is updated by the school and routing to the new address will take place within five to seven business days.
2. If the student is eligible for yellow bus service because they reside  $\frac{1}{2}$  mile or more from school, and the school determines that a yellow bus route and bus stop are available, the school will assign the student a bus stop in ATS.
3. If the student is eligible for yellow bus service because they reside  $\frac{1}{2}$  mile or more from school, resides within the borough in which the school is located, and the school has confirmed that there is not an existing stop available, the school must submit a request to create a new stop on an existing route in the OPT 199 system. The school should consult with their Transportation Liaison before submitting the request.
4. If the student requires a new bus stop for an existing route that is outside of the borough in which the school is located, or outside New York City, the parent, foster-parent, foster care agency, or school must submit an Exception Request, specifying foster care placement as the basis for the exception. Exceptions will be granted if an existing route is in place that can accommodate the new stop. The exception request form can be found on [www.schools.nyc.gov/school-life/transportation/bus-eligibility/exceptions-to-transportation-eligibility](http://www.schools.nyc.gov/school-life/transportation/bus-eligibility/exceptions-to-transportation-eligibility) and submitted to [BusingExceptions@schools.nyc.gov](mailto:BusingExceptions@schools.nyc.gov).

**C. Reimbursement**

While transportation is either being arranged or updated, parents, foster parents and foster care agencies may transport the child at their own or the foster care agency's expense and submit for reimbursement to the DOE using the reimbursement form, available by emailing [TransportationReimbursement@schools.nyc.gov](mailto:TransportationReimbursement@schools.nyc.gov).

## IX. ATTENDANCE

**School staff are expected to follow Chancellor's Regulations A-750 and A-210 to monitor the attendance of students in foster care.**

- A. Mandatory Escalation of Concerns to ACS or ACS Agency Partner  
Students in foster care fall under "Tier 3" of the Tiered Response Protocol, which sets forth procedures for schools to monitor the attendance of students with child welfare involvement in grades 3K-8. On the third consecutive day of absence on which the parent/foster parent cannot be reached and/or for which no explanation or no adequate explanation for the absence is

provided, as determined by the principal, in consultation with the staff member doing outreach, the assigned school staff person must:

1. immediately report the student's absences and the results of outreach to the child's foster care Case Planner or, if the school is unable to reach the Case Planner, the ACS Office of Education and Employment Initiatives at 212-453-9918 or [education.unit@acs.nyc.gov](mailto:education.unit@acs.nyc.gov); and
2. record the school's contacts with either the foster care Case Planner or the ACS Office of Education Support in ILOG.

## X. TECHNICAL ASSISTANCE

The Office of Safety and Youth Development - Citywide Coordinator for Child Abuse and Maltreatment Prevention provides technical assistance with implementing this guidance and serves as a liaison with other offices on matters pertaining to foster care. In addition, the Citywide Coordinator for Child Abuse and Maltreatment Prevention offers training and educational materials on child welfare involvement and Chancellor's Regulation A-750.