

QUICK REFERENCE GUIDE TO UNDERSTANDING FEDERAL AND STATE SCHOOL STABILITY LAWS

Key Terms and Definitions

A **“student in foster care”** is synonymous with a **“student in an out-of-home placement”**, which is defined in HB 18-1306 as, “Student in out-of-home placement means a child or youth who **at any time during an academic semester** or term is in foster care and receiving educational services through a state-licensed day treatment facility or who at any time during an academic semester or term is in placement out of the home, as that term is defined in section 19-1-103 (85), including but not limited to any child or youth who is in placement outside of the home **at any time during an academic semester** or term as a result of an adjudication pursuant to Article 2 of Title 19. **‘Student in out-of-home placement’ includes a child or youth who transfers enrollment as a result of being returned to his or her home at the conclusion of out-of-home placement.**”

“School” means a public school of a school district, a school operated by a Board of Cooperative Services, Institute Charter School, or a state-licensed day treatment facility, or an approved facility school.

“School of Origin” is defined¹ flexibly to ensure children and youth who might not otherwise have a school of origin can attend the school where they have meaningful connections and to ensure children and youth input is considered when selecting a school. Designating a school as the “school of origin” allows the child or youth to attend there and receive transportation if necessary, even if they live outside the catchment area or transportation would not otherwise be provided.

- In most cases, the school of origin is the school in which a student was enrolled at the time of each placement into foster care. If the student’s foster care placement changes, the school of origin is the school in which the student is enrolled at the time of the change in placement. ‘School of origin’ includes “the designated receiving school at the next grade level for feeder school or zone patterns when the student completes the final grade level served by the school of origin.” This definition allows students to continue with their peers as they move from elementary to middle school or middle to high school.
- If the student is “stepping down” from a facility school, including schools in a residential child care facility or secure detention facility, and the student will no longer be enrolled in the facility school, there is flexibility to look back to schools the student has recently attended. The school of origin in these situations is either:
 - the last school the student attended within the previous two years for at least one complete semester or term prior to entering the facility school; or
 - another school where the student had a meaningful connection within the previous two years

- When there is more than one potential school of origin, the student’s input must be given strong consideration when determining which school to designate as the school of origin.

“**Immediate**” refers to the enrollment of a student in out-of-home placement and transfer of records. In reference to records, HB 18-1306 states, “Student is enrolled in a new school immediately with transition planning, and that the student’s complete education information and records are requested immediately by the student’s new school upon enrollment... “Education provider shall transfer the student’s education information and records to the receiving school as soon as possible but not to exceed five school days after receiving the transfer request.”

Best Interest Determination (BID) Meetings

What is a BID Meeting?

If a change in placement could potentially result in a school change, a BID meeting is held to determine whether or not it is in the child’s best interest to remain in the school of origin. The presumption is that it is in the best interest of the student to stay in their same school, unless a team decides it is not in their best interest.

Will there always be a BID meeting when a child changes placement?

No. If a child changes out-of-home placement, and there is no need to move schools, the child can remain going to the same school. In this case, the schools still need to be notified about the change in placement to ensure students are receiving free meals and fee waivers. It is also essential for schools to know where a child is residing and any pertinent legal issues (e.g. restraining orders or custody agreements) that impact the child at school or the schools ability to contact a caregiver in the event of an emergency.

Who arranges the BID meeting?

The county departments of human/social services are responsible for initiating, inviting participants, and facilitating BIDs. Social Services Rules 12 CCR 2509-4, 7.301.241 require county departments to coordinate with Local Education Agencies (LEA) to conduct BID meetings prior to the school move.

Who is invited to attend BID meetings?

County departments of human/social services are required to invite the following people to attend best interest determinations: child/youth (in a developmentally appropriate way), parents, caseworker or appropriate designee, guardian ad litem (if one is appointed), representative from the school of origin who knows the child/youth as determined by the LEA, educational surrogate parent, others as relevant and appropriate as determined by the county which includes, but is not limited to: future caregiver, court appointed special advocate (CASA), representatives from potential new school, support person for the child/youth.

What information is factored into consideration at a BID?

The information that is factored into the BID includes, but is not limited to: child/youth’s wishes, child/youth’s safety, how the school of origin can meet the academic and non-academic needs (including special education, extra-curricular activities, social, emotional needs, and meaningful relationships at the school of origin), how the decision impacts permanency goal(s), and time and distance traveled. Note: ESSA mandates that cost of transportation is **not** a permissible consideration in determining the child/youth’s best interest.

Are there any special considerations for students in special education?

IDEA remains in place regardless of out-of-home placement status. Due to the complex nature and multiple considerations related to IDEA and ESSA, a separate fact sheet on this topic is being created. In the meantime, contact the State Coordinator for Foster Care Education at CDE with questions.

Who makes the final determination in the BID?

The county departments of human/social services, and ultimately the juvenile court have decision-making responsibilities regarding children and youth under their jurisdiction, including BIDs. While schools are a vital part in providing the necessary information to make the determination, schools do not have access to confidential details of the child welfare case. The county department must consider how school of attendance affects the child/youth's safety, well-being, and permanency.

Who coordinates transportation the child to remains in the school of origin

Under ESSA, LEAs and County departments of human/social services are to develop written transportation systems-level plans that define how transportation to the school of origin will be arranged, provided, and funded for the duration of time in foster care.

Child Welfare Education Liaisons (CWEL)

Responsibilities of a CWEL include:

- CWELs required at each Local Education Agency
- Reporting of CWEL contact information by August 15 of each year (now met through Consolidated Applications)
- Participation in Best Interest Determination meetings upon request
- Collaborating with county departments of human services to provide, arrange, and fund transportation to the school of origin
- Participation in threat assessment teams upon request
- Ensure immediate enrollment
- Ensure immediate transfer of records
- Honoring certified coursework and accepting partial credits (contact CDE for more information)
- Waiving fees that would otherwise be assessed

Transportation

The basics: Collaboration between counties and school districts is essential to providing children and youth school stability. Consistent with the Every Student Succeeds Act §1112(c)(5)(B) , 22-32-138 C.R.S. requires county departments and school districts to “coordinate...to establish systems-level plans for how necessary transportation to the school of origin is provided, arranged, and funded for the duration of a child's or youth's time as a student in out-of-home placement, including the equitable allocation of costs.”

What makes Colorado different: \$2,750,328 was allocated specifically for transportation to school of origin for students in out-of-home placement. This amount came from a transportation

needs assessment study CDHS completed in 2017 that estimated the cost to maintain students in out-of-home placement in their school of origin.

How does it work?

- Districts and counties will bill CDHS for 100% of the transportation cost.
- Transportation funds from CDHS cover 80% of the transportation costs.
- Districts and counties split the remaining 20% equitably (typically 50/50 split)

Do children in out-of-home placement automatically get to attend their school of choice?

- **No.** The federal and state laws clearly state **transportation is to the school of origin.**
- The intent is to maintain school stability whenever possible.
- If an educational decision maker wants a student in foster care to attend a school of choice, the process would be the same for them as any other student.

Is there a limit on time and distance traveled to school of origin?

No. Caseworkers and other BID participants determine whether or not staying in the school of origin is appropriate for the child on a case-by-case basis. Every decision should be unique to the child's situation, therefore there are no hard limits on time and distance traveled. For example, 5 year old traveling on a bus for an hour each way to and from school may not be appropriate; however, a high school aged student who has a one hour bus ride and is trying to finish their last semester of school to graduate could be appropriate. If a CWEL or Caseworker eludes to hard rules on this, contact the State Coordinator for Foster Care Education at CDE and/or the Educational Specialist at CDHS.

For additional Questions, Contact:

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