

## Foster Care Frequently Asked Questions

The Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA) emphasizes the educational stability of vulnerable students, including those in foster care. Children in foster care face many educational barriers, including traumatization, high mobility, and undiagnosed behavioral and health conditions.

### [Ensuring Educational Stability for Children in Foster Care Non-Regulatory Guidance](#)

#### **1. Q: What does the ESSA require of Local Educational Agencies (LEA's) as it relates to children in foster care?**

**A:** Sections 1111(g)(1)(E) and 1112(c)(5) of the Elementary and Secondary Education Act (ESEA) as amended by ESSA require LEAs to:

- Designate point of contact to collaborate with the Child Welfare Agency (CWA).
- Develop and implement clear written procedures regarding the provision, arrangement, and funding of transportation for children in foster care as to ensure continued enrollment in the child's school of origin should that be determined to be in the child's best interest, throughout the child's placement in foster care.
- Ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with the federal Social Security Act.
- Ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the LEA will provide transportation to the school of origin if (a) the local CWA agrees to reimburse the LEA for the cost of such transportation; (b) the LEA agrees to pay for the cost of such transportation; or (c) the LEA and the local CWA agree to share the cost of such transportation.
- Ensure that any such child enrolls or remains in such child's school of origin, unless a determination is made that it is not in such child's best interest to attend the school of origin.
- Ensure that when a determination is made that it is not in such child's best interest to remain in the school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment.
- Ensure that the enrolling school immediately contacts the school last attended by any such child to obtain relevant academic and other records.

#### **2. Q: How should CWAs and LEAs determine if the child's school of origin is in his/her best interest?**

**A:** CWAs and LEAs should collaborate to make best interest determinations, and the child must remain or be enrolled in the child's school of origin, unless a determination is made that it is not in the child's best interest to do so. The factors that should be included in the child's best interest consideration are:

- The child's desire to remain in the school of origin.
- The preference of the child's parents or legal guardian.
- Whether the child has a sibling(s), close friends, and/or a mentor at the school of origin.
- The child's cultural and community connections in the school of origin.
- The ability to implement a 504 Plan, individual educational plan (IEP), or other special education services, if applicable.
- The impact a change would have on academic credits and progress toward promotion.
- The availability of extracurricular activities important to the child.
- The child's medical and behavioral health needs.
- The child's permanency goal and timeframe for achieving permanency.
- The child's history of school transfers and how they have impacted the child.
- The length of the commute and how it would impact the child.

The federal guidance states that the cost of transportation should not be a factor when making a best interest determination.

**3. Q: Section 1112(c)(5)(B)(i) of ESSA states that the LEA must “ensure children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner....” In many instances it takes 24-48 hours for an LEA to arrange transportation. Is this considered promptly?**

**A:** ESSA does not define “promptly” or provide a minimum timeframe. According to the plain meaning of the term “promptly,” the LEA must arrange for the required transportation quickly and without delay.

**4. Q: Must the LEA point of contact be the LEA Title I, Part A point of contact?**

**A:** No, but they should be on the planning team with the foster care point of contact in order to make the appropriate assurances in the Title I, Part A application.

**5. Q: What are the responsibilities of the LEA point of contact?**

**A:** The LEA point of contact should work with the local CWA point of contact to make best interest determinations. The LEA point of contact may also provide transition services from one school to another when it is determined that remaining in the school of origin is not in the best interest of the child. These services may include providing documentation of the best interest determination to the receiving school, facilitating transfer of records, collaborating with district Title I office on the implementation of Title I provisions, and performing other duties that may assist in the educational stability of the child in foster care as outlined in district policies.

**6. Q: How should LEAs implement the transportation provisions?**

**A:** Children whose foster home is in the attendance zone for the school of origin will ordinarily not create excess cost, since the child will be able to ride on an existing route without creating additional costs. For children whose foster home is outside the attendance zone for the school of origin, there are several ways in which implementation could be accomplished, for example:

**Option 1:**

If the child who is transported to the school of origin lives beyond the school of origin’s attendance zone, yet adjacent, then add the child to a current school bus route that serves their school of origin. Determine the extra time needed per day for the driver to be able to serve at the beginning of the bus route in the morning and the end of the bus route in the afternoon. Contract with the bus driver for the extra time necessary to serve the child. The excess cost includes any mileage associated with the bus route, along with driver pay.

**Option 2:**

If the child lives beyond the school of origin’s attendance zone, and one would need to cross several boundaries in order to attend, then offer to the foster parent or legal guardian reimbursement mileage for the transportation of the child to and from school. [Click here for standard IRS mileage reimbursement rates](#). The excess cost includes any mileage paid to the foster parent or legal guardian.

**7. Q: Is it the LEA or CWA responsibility to provide transportation for children in foster care crossing state or district lines to get to school of origin?**

**A:** To the extent practicable, LEAs and CWAs should address inter-district and interstate enrollments through inter-district or inter-agency agreements. It is the responsibility of the Kentucky Department of Education, LEAs, and state and local CWAs, working collaboratively, to ensure that children are enrolled or remain in their school of origin, unless a determination is made that it is not in their best interests to do so. Section 1112 of ESSA indicates that if there are additional costs incurred in providing transportation to maintain children in foster care

in their schools of origin, the LEA will provide transportation if the CWA agrees to pay the costs, the LEA agrees to pay, or the LEA and CWA agree to share the costs. At this time, neither ESSA nor any rule or regulation specifies the LEA's obligation to provide transportation if there are excess costs and no agreement on the payment of such costs. In that event, all agencies involved are encouraged to find a solution that meets the needs of the child.

**8. Q: Does the CWA have allowable funding for transportation?**

**A:** Title IV-E federal funds are available to assist with additional transportation costs for children who are eligible for Title IV-E foster care maintenance payments, if the CWA agrees to utilize these funds for this purpose. [Please see Item 30 of the federal guidance.](#)

**9. Q: How should LEAs cover the additional cost of transportation?**

**A:** Districts may use either CWA funds, district funds, or federal funds to cover the necessary transportation costs.

**10. Q: Is there a uniform rate for calculating the "excess cost" for transportation?**

**A:** Yes. For district or personal vehicles, you may use the [standard IRS mileage reimbursement rates](#). For a school bus, contact the LEA Transportation Director for the mileage rate. Please see Item 27 of the federal guidance.

**11. Q: Is there a reasonable method for determining the reimbursement rate for transportation?**

**A:** Yes, by using established mileage rates mentioned above along with any costs associated with employee salary/pay.

**12. Q: Is there a federal reimbursement rate for the buses?**

**A:** No. This is a local district decision.