

## Education Justice Program

Advancing education equity and racial justice for all children

# EDUCATIONAL STABILITY FOR CHILDREN IN FOSTER CARE: Students' Rights Under Missouri Law

## Key Terms

**School of origin:** the school where the child is enrolled at the time of each placement in foster care

**School of residency:** the school where the child is staying in foster care

**State educational agency (SEA):** the state agency that oversees all programs related to education and all LEAs; in Missouri, this is the Department of Elementary & Secondary Education (DESE)

**Local educational agency (LEA):** the local entity, usually a school district, responsible for implementing education laws

**State child welfare agency (SCWA):** the state agency that oversees all programs related to child welfare

**Best interest determination:** a child-centered meeting that considers factors such as a child's attachment to the school of origin, relationships with staff and peers, placements of siblings, safety of the school environment, and availability of services to meet the child's educational & social/emotional needs

## Federal Law

Two federal laws work together to impose affirmative and collaborative obligations on child welfare agencies and educational agencies like school districts.

**The Fostering Connections to Success and Increasing Adoptions Act of 2008** (Fostering Connections Act) includes important educational stability provisions for school-aged foster children. Under this Act, state child welfare agencies receiving Social Security Act funds must include a plan for the educational stability as part of the case plan for every child in foster care, including:

1. An assurance that each placement of the child in foster care considers the appropriateness of the current educational setting and the proximity to the school of origin.
2. An assurance that the SCWA has coordinated with the appropriate LEA(s) to ensure the child can remain in the school of origin, or, if remaining in that school is not in the best interests of the child, assurances from the SCWA and LEA to enroll the child immediately in a new school, with all of his or her educational records provided to the school.

The Every Student Succeeds Act (ESSA) was enacted in 2015 and contains additional key protections for students in foster care. ESSA essentially created obligations for education agencies that parallel those obligations that Fostering Connections created for child welfare agencies.

## Transportation

The transportation of foster care students to school is not addressed in the Foster Care Education Bill of Rights or in other law. On June 13, 2006, the Department of Social Services, Children's Division issued a Memorandum regarding changes to section 211.032, RSMo, permitting a foster child to remain in the same school at the time of placement. The Department of Elementary and Secondary Education provided the Children's Division with transportation options a child placement agency team can take into consideration when placing a foster child, including:

1. The school bus of the foster child's home district travel to the home of the foster parent to pick up the child. These miles would be considered eligible miles for the school district to include in their allowable cost for state aid;
2. The foster parent provides transportation and receives reimbursement for mileage from the school district. School districts can include this as an allowable cost for state aid;
3. The foster parent meets the school bus at the boundary line of the school district;
4. The school district contracts with an individual besides the foster parent to transport the child to the child's home district; or
5. The foster parent provides transportation with no reimbursement for mileage from the school district.

Under ESSA, school agencies must collaborate with their child welfare partners to ensure:

- Foster children remain in their schools of origin unless not in their best interest;
- Foster children are immediately enrolled in school even if they cannot produce normally-required enrollment documents or school records;
- School records are automatically transferred for foster children;
- School transportation is coordinated with the child welfare agency when necessary for children to remain in their schools of origin, but the cost of transportation is not a factor;
- Each SEA and LEA designates a point of contact for the education of children in foster care; and
- SEAs report annually on student achievement and graduation rates for students in foster care.
- See Children's Division's 2017 memorandum for more information: [https://dssmanuals.mo.gov/wp-content/themes/mogovwp\\_dssmanuals/public/cd/memos/2017/cd17-026.pdf](https://dssmanuals.mo.gov/wp-content/themes/mogovwp_dssmanuals/public/cd/memos/2017/cd17-026.pdf)

## Missouri State Law

Missouri Senate Bill 291 (2009) created sections 167.018 and 167.019, RSMo, otherwise known as the "Foster Care Education Bill of Rights". These laws require public school districts and child placing agencies to ensure foster children don't fall through the cracks when it comes to receiving an education.

**Section 167.018, RSMo**, requires each school district to designate a staff member as "the educational liaison" for children in foster care. This person must:

1. Ensure and facilitate the proper educational placement, enrollment in school and checkout from school of foster children;

## Note:

**As of 2016, children awaiting foster care placement are no longer covered by the McKinney-Vento Homeless Assistance Act.**

## Best Interest Determination (BID) Checklist

- Was the child or youth informed of the benefits of inviting an advocate or “significant person” to attend the meeting?
- Was the child or youth’s school of origin identified and presumed to be in their best interest?
- Was the child or youth asked about their preference?
- Was the child’s IEP team present if applicable?
- Did the BID team keep the cost of transportation out of their determination?
- Was the educational decision-maker/parent informed of their right to dispute the BID? See <https://dese.mo.gov/sites/default/files/qs-fc-Foster-Care-Dispute-Resolution-Procedures.pdf> for Missouri’s dispute resolution process.

**2.** Assist foster care students when transferring from one school or district to another, by ensuring proper transfer of credits, records and grades;

**3.** Request school records of a foster care student pursuant to section 167.022, within two (2) business day of a foster care student’s placement in a school, and

**4.** Submit school records of foster care students within three (3) business days of receiving a request for their records.

**Section 167.019, RSMo**, requires a child placing agency to promote the educational stability of foster children. The child placing agency must consider the foster child’s school attendance area when placing the child. In addition:

**1.** A foster child has the right to remain enrolled in and attend his or her school of origin or to return to a previously attended school in an adjacent district.

**2.** The school district shall accept for credit full or partial course work satisfactorily completed by a foster care student while attending a public school, non-public school, or non-sectarian school in accordance with district policy or procedure.

**3.** A foster care student’s school district of residence shall issue a diploma to a foster care student under the jurisdiction of the juvenile court providing the student completes the district’s graduation requirements.

**4.** A school district shall ensure that if a foster care student is absent from school because of a change in placement made by a court or child placing agency, the grades and credits of the foster care student shall be calculated as of the date the student left school, and the student’s grades shall not be lowered as a consequence of the absence.

**5.** Subject to federal law, school districts shall permit access of foster care student records to any child placing agency for the purpose of fulfilling educational case management responsibilities required by a juvenile officer or by law and to assist with the school transfer and placement of a student.