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. 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 schools 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 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. Foster care means 24-hour substitute care for children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes.

B. School of origin means the school the student attended at the time of placement in foster care or the school in which the student was last enrolled, including a pre-K program. If a student’s foster care placement changes, the school of origin would then be considered the school in which the child is enrolled at the time of placement change.

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 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 letter notifying the school’s Designated Liaison of the placement and requesting that the student’s address be updated in Automate the Schools (ATS), and soliciting timely input (within 3 school days) from school personnel knowledgeable about the child, including the Tiered Response Protocol Point Person (3K-8) regarding the impact of a school change on the child’s academic and social well-being. Upon receiving feedback from the school, the case planner or education specialist must record a summary of the information obtained from the school in CNNX Progress Notes for review at the foster care Transition Meeting.

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 through the ACS Office of Transportation Services.

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.

III. PARENT COMMUNICATION

A. In the absence of a court order indicating otherwise, the birth/adoptive parent of a child in foster care retains the right to make all educational decisions for the child and is presumed to be the “parent” for special education decision-making purposes and must be contacted for consent
to all special education evaluations and services. The school must provide the birth/adoptive parent with the opportunity to remain informed of the child’s academic and behavioral progress, obtain records, attend parent-teacher conferences, and otherwise participate in the child’s education.

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 birth/adoptive parent and the foster parent.

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:

A. 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. In accordance with the Uninterrupted Scholars Act of 2013, ACS and its provider agencies may access educational records relating to students in their care and protection.
   1. If requested, the foster care agency will provide the school with a letter verifying the basis for obtaining the student’s educational records. Records may only be released to and reviewed by individuals authorized to access the child’s case plan, including:
      • The child’s foster care agency case planner;
      • Foster care agency supervisors; and
      • Any other individual from ACS or the foster care agency who has access to the child’s case plan (e.g. individual charged with coordination of education services for the child).

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 PK-8, the designee for the Tiered Response Protocol be the Designated Liaison. There is a required annual training for Designated Liaisons.

C. NYC DOE 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 Support and Policy Planning and foster care agencies; b) establishing a working relationship with the ACS Office of Education Support and Policy Planning, 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.
   2. The ACS Office of Education Support and Policy Planning is available to coordinate ACS staff participation in school-based training. Training requests may be sent to 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 who enter foster care or change foster care placements are entitled to remain in their schools 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.

A. The determination of the student’s best interest involves consideration of student-centered factors, which may include: the proximity of the new foster care placement in relation to the current school, the preference of the student and/or parent or the person with educational decision-making rights, the history of school transfers, the placement of the student’s sibling(s), the appropriateness of the current education setting,¹ and the impact of a school transfer, including the commute. The determination should be made by the foster care agency case planner, with input from the school of origin, in conference with the ACS child protective specialist, the parent, and the student.

1. 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.

B. Within one school day of a child’s placement in a foster home or change in foster care placements, the foster care agency will contact the Designated Liaison to solicit input regarding the factors listed in VI.A. This feedback will be factored into the best interest determination as described above.

C. 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 Support and Policy Planning (OESPP) and will collaborate with these entities to ensure that transportation is provided, arranged, and funded.

D. If it is determined that it is in the best interest of the student to change schools, ACS Office of Education Support and Policy Planning (OESPP) will contact the Office of Student Enrollment to request a transfer, providing the Best Interest Determination Transmittal Form as supporting documentation. The Office of Student Enrollment will identify a new school for the student. District 75 schools should contact the District 75 placement office.

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 student is discharged from foster care. The new school shall immediately enroll the student, even if the student cannot produce records normally required for enrollment and shall

¹ 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.
immediately contact the school last attended by the student to obtain relevant academic and other records.

2. Newly enrolled children in foster care (i.e. new to NYDOE 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 the disabled and for students with limited English proficiency, programs in vocational education, programs for the gifted and talented, and school meal programs, provided, however, if space in a particular program has been capped for all students, no exceptions will be made for students in foster care.

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 address and will coordinate with the school.

A. MetroCard

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

2. Foster parents of students in pre-kindergarten through 6th grade may receive a MetroCard upon request to bring their children to and from school.

3. MetroCards for foster parents are available from the DOE’s STH Regional Offices. If DOE has issued a student MetroCard but public transportation is not a practical option for the student, the foster parent/s should contact the foster care agency to request alternative transportation.

B. Busing

1. If the child is eligible for yellow bus service because she or he resides ½ 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.

2. If the student 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 may submit a request to create a new stop on an existing route in the OPT 199 system.

3. If 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 foster care parent/agency, or school will submit an Emergency 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.

4. Students receiving door-to-door busing as an IEP-related service will continue to receive this service as their form of school transportation. If the student requires IEP-mandated specialized transportation and is residing at a new address, the parent will notify the school
of the new address and the school will contact their school Transportation Liaison or CSE to begin 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.

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
      On the third consecutive day of absence on which the parent/foster parent cannot be reached personally or for which the parent/foster parent provides no adequate explanation, 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 Support and Policy Planning at 212-453-9918 or 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 assistance with implementing this regulation and offers training and educational materials on child welfare involvement. For technical assistance, contact the Citywide Coordinator for Child Abuse and Maltreatment Prevention.