

Mississippi Department of Education
and
Mississippi Department of Child Protection Services
Joint Guidance



EDUCATIONAL
STABILITY
for CHILDREN *in*
FOSTER CARE



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PURPOSE

The Mississippi Department of Education is dedicated to helping students in foster care remain academically stable while completing courses and advancing to the next grade. Educational stability will aid the students in continuing to become college and career ready.



LEGISLATION AND GUIDANCE

The *Every Student Succeeds Act (ESSA)* was signed into law on December 10, 2015, amending the *Elementary and Secondary Education Act*. For the first time, the *Every Student Succeeds Act* embeds federal education law requirements that emphasize school stability and success for youth in foster care.

Implementation for new requirements: the *Every Student Succeeds Act* amended Section 725 of the McKinney-Vento Homeless Assistance Act, removing children “awaiting foster care placement” from the definition of “homeless children and youth” for purposes of the Education for Homeless Children and Youth program. Beginning December 10, 2016, the State Education Agency (SEA) and Local Education Agency (LEA) must meet Title I requirements for children awaiting foster care placement.

Moreover, the *Every Student Succeeds Act* underscores the importance of the existing child welfare mandates contained in the Fostering Connections and Increasing Adoptions Act of 2008. The Fostering Connections Act requires custodial agencies to collaborate with districts to ensure foster children’s school placements remain intact when substitute care placements change, if deemed to be in their best interest to do so. Considered together, these laws hold districts and custodial agencies jointly accountable for ensuring the educational stability of youth in foster care. Federal statutes outline expectations of collaboration and effective implementation of the educational stability provisions. Section 1112(c)(5)(B) of the *Elementary and Secondary Education Act* specifically requires that, no later than one

year after the date of enactment of the *Every Student Succeeds Act* (December 10, 2015), an LEA begin implementing the requirements regarding transportation to permit children in foster care to remain in their school of origin. Each LEA that receives Title I funds must develop and implement, in collaboration with the State or local child welfare agency, procedures to provide, arrange, and fund transportation to permit children in foster care to remain in their schools of origin by December 10, 2016.

The *Every Student Succeeds Act* requires collaboration between LEAs and state child welfare agencies. The *Every Student Succeeds Act* emphasizes the importance of limiting educational disruption of children placed in foster care who move due to entering care or changing placements by mandating that the child remain in their schools of origin unless it is determined by the LEA and state child welfare agency that changing schools is in the child's best interest.

Mississippi's state child welfare agency is the Mississippi Department of Child Protection Services (MDCPS). In coordination with MDCPS, LEAs must ensure the following Title I educational requirements for children in foster care are met:

- A child in foster care remains in his or her school of origin *unless* the LEA and MDCPS determine that remaining in the school of origin is not in that child's best interest;
- If the LEA and MDCPS determine it is not in the child's best interest to stay in his or her school of origin, the child is *immediately* enrolled in the new school, even if the child is unable to produce records normally required for enrollment; and,
- The new (enrolling) school *immediately* contacts the school of origin to obtain relevant academic and other records.



EDUCATION AGENCY RESPONSIBILITY

Districts must collaborate with MDCPS to implement the educational stability provisions for students in foster care. Districts should work closely with MDCPS, during the best interest determination, to ensure that processes and procedures are in place to meet the unique needs of students in foster care including:

- Students in public preschool - district must meet the educational stability requirements for children in foster care who were enrolled in preschool at their time of placement in a foster home.
- English language learners (ELLs) - students identified as having limited English proficiency in speaking, listening, reading, or writing English through procedures established by school districts. Title VI and the Equal Educational Opportunities Act of 1974 (EEOA) require public schools to ensure that all English learner students, including English learner students in foster care, can participate meaningfully and equally in educational programs.



LEA POINT OF CONTACT (POC)

Given that educational stability for children in foster care provisions will largely be implemented at the local level, LEAs must designate a Point of Contact. The contact information for the LEA point of contact should be made public so the designee may be easily reached when required.

Roles and responsibilities of the LEA point of contact may include:

- Coordinating implementation of the Title I, Part A provisions, as it relates to Foster Care provisions outlined in the *Every Student Succeeds Act*;
- Leading the development of a process for making the best interest determination;
- Documenting the best interest determination;

- Facilitating the transfer of records for immediate enrollment;
- Facilitating data sharing with the MDCPS consistent with Family Education Rights to Privacy Act and other privacy protocols;
- Developing and coordinating local transportation procedures;
- Managing best interest determinations and transportation cost disputes;
- Ensuring that children in foster care are enrolled in and regularly attending school; and,
- Coordinating and implementing the child's IEP if applicable. If the child is a child with a disability the school of origin should collaborate with the new school to ensure services begin day one.



BEST INTEREST DETERMINATION

The LEA and MDCPS must collaborate to determine or ensure a determination is made as to whether it is in the child's best interest to remain in his/her school of origin. The school of origin is defined as the school in which a child is enrolled at the time of initial foster care placement or at the time a change in foster placement is made. The custodial agency must notify the school and district within one school day of the child being placed in foster care or of a change in the foster child's living arrangement.

A district must ensure that a child in foster care remains in his or her school of origin unless a determination is made that it is not in the child's best interest to do so. The LEA must take into consideration all factors relating to a child's best interest. Although there is flexibility in determining which factors should be considered as part of evaluating the appropriateness of the current educational setting, to make a holistic and well-informed determination, a variety of student-centered factors should be considered such as:

- The child's participation in specialized instruction (e.g., gifted programming, career technical education program, College Credit Plus, Advanced Placement classes);

- The availability of required special education and/or related services in a school other than the school of origin when the student has an identified disability under IDEA or Section 504;
- The availability of language services in a school other than the school of origin when the student has been identified as an English language learner pursuant to Title VI and the Equal Educational Opportunities Act;
- The student's ability to earn full academic credit, the ability to proceed to the next grade, or the ability to graduate on time;
- School climate, peer support, supportive adults, and involvement in extracurricular activities;
- The availability and quality of the services in the school to meet the child's educational and socioemotional needs;
- The impact the commute to and from school would have on the student, based on developmental functioning. For children with disabilities, the Fostering Connections Act, and Individuals with Disabilities Education Act (IDEA) federal requirements are to be factored in when determining best interest; and
- The cost of transportation or the appropriate services should **not** be a consideration when determining a child's best interest.

Best interest determinations are **only** required when there is a potential change in the school; however, the custodial agency should inform the student's school and district the next school day when there is an out of home placement or a change in placement. This process will ensure the LEA has correct information. The LEA **must** update the student database and contact information for the student upon notification. Timely notification allows the school and district to adjust necessary services and interventions (e.g., counseling, school-based health services) for the student.

When it is **not** in the best interest of the child to remain in his or her school of origin, a child must be immediately enrolled in his or her new school even if the student doesn't have the necessary documentation for enrollment.



STUDENT RECORDS

The enrolling school must contact the student's prior school for relevant records the same day as the student's arrival. The local MDCPS is responsible for providing pertinent information regarding the child's age, grade, and academic history (e.g., current Individualized Education Program) to aid the LEA in placing the student in an appropriate classroom setting until full student records can be obtained. If the enrolling school does not know the student's grade, grade-level assessments must be utilized to determine a student's placement until the LEA receives the student's records. The new school also must request the student's records from the school of origin the same day of enrollment. The school of origin is expected to provide the student records to the new school within one (1) school day of the request.

The MDCPS and LEA have five (5) school days from the date of child's placement in foster care or change in the child's living arrangement to finalize a best interest determination, except in emergency removal situations. During this period, the child is to remain enrolled in his or her school of origin.



ACADEMIC CREDIT AND GRADES

All districts should have clear, written procedures in place to ensure that students in foster care receive appropriate credit for full or partial coursework satisfactorily completed while attending prior schools. Examples of such procedures may include districts awarding credits for all courses satisfactorily completed at a prior school, even if the school was in a different district or state. The district should consult with a student's prior school about the student's coursework at that school, informally or formally evaluating the student's current mastery of courses partly completed in a prior school, awarding partial credits, and offering credit recovery courses.



TRANSPORTATION

Some children in foster care may need transportation to remain in their school of origin. Any child in foster care needing transportation to their school of origin must promptly receive transportation services. If the child remains in their school of origin and moves outside the current school's attendance zone, the LEA must collaborate with the local MDCPS to develop and implement clear written transportation procedures in accordance with 34 C.F.R. § 299.13(c)(1)(ii). The two entities must establish a system that expedites transportation for children placed in foster care. The goal is to maintain educational stability for the student. There are various modes of transportation available for students. Examples of no-cost or low-cost options for transportation that LEAs and the MDCPS could explore include whether:

- MDCPS will arrange for the child to be dropped off at a school bus stop for the school of origin;
- MDCPS will arrange for the foster parent or other designee to transport the child to school (mileage reimbursable through foster care maintenance payments);
- MDCPS and the LEA will review pre-existing bus routes or stops close to the foster care placement that cross district boundaries, such as bus routes for magnet schools and transportation for homeless students as required by the McKinney-Vento Act;
- MDCPS and the LEA will determine if the child is already eligible for transportation covered by other programs;
- MDCPS and LEA will address how the child welfare agency will use foster care maintenance payments and administrative funds to pay for transportation to the school;
- MDCPS and LEA will specify how “additional costs” of transportation will be calculated, to delineate clearly the LEA's responsibility to provide transportation when there are no additional costs;

- MDCPS and LEA will specifically describe how transportation to the school of origin will be provided in situations where there are no additional costs; and
- MDCPS and LEA will specify the timing and procedures for the child welfare agency to reimburse the LEA for transportation costs.

In the event of a dispute between the LEA and MDCPS concerning the cost of transportation, the two entities must consider what is in the best interest of the student. If the disagreement continues, the cost will be divided equally between the LEA and MDCPS. The dispute shall be brought before the state appointed POCs (Toni Kersh, MDE and Julie Propst, MDCPS). Current transportation expenses shall remain in effect until a decision is rendered to maintain the student's status quo.

Funding Source for Transportation: In addition to state and local funds that may be available for providing transportation, certain federal funds may be available to cover additional transportation costs to the school of origin for students in foster care. Districts may use Title I funds to pay for additional costs needed to transport children in foster care to their schools of origin.

Additionally, Title IV-E funds which are earmarked for the child welfare training program was created as part of the Child Welfare and Adoption Assistance Act of 1980 (P.L. 96-272) to support training in both foster care and adoption services. These funds are provided through the Mississippi Department of Child Protection Services to aid with reasonable transportation costs that will enable foster care students to attend his or her school of origin. LEAs will need to consult with MDCPS regarding individual student's eligibility of Title IV-E child welfare funds. It is important to note that if a foster care student receives Title IV-E reimbursement, it is only available for the federal portion of transportation costs, LEAs are responsible for the non-federal portion. Cost-sharing to meet the match requirements for federal reimbursement is allowable, and is one way for LEAs and MDCPS to collaboratively meet their

responsibilities for providing transportation and maximize use of available federal funds. The following will aid the LEA

Multiple factors are utilized in determining reasonable transportation, including costs, distance, and duration. The MDCPS has sole authority in determining which cost to include in a child's foster care maintenance payment. These factors must be considered and part of the plan developed collaboratively between the LEA and local MDCPS.

Furthermore, the *Every Student Succeeds Act* requires that districts must ensure that transportation is provided for a child in foster care, regardless of whether the district provides transportation otherwise. This requirement includes students in foster care who attend public preschools. If an LEA offers a public preschool education, an LEA must meet the Title I requirements for children in foster care in preschool, including ensuring that a child in foster care remains in his or her preschool of origin, unless a determination is made that it is not in the child's best interest. (See *Elementary and Secondary Education Act* Section 1111(g)(1)(E)).

Additional costs incurred in providing transportation to the school of origin should reflect the difference between what an LEA otherwise would spend to transport a student to his or her assigned school and the cost of transporting a child in foster care to his or her school of origin. U.S. Departments of Education and Health and Human Services (2016), Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care-Question 27.



DISPUTE RESOLUTION PROCESS

Once all avenues to resolve a foster care dispute at the local level, the dispute must be forwarded to the Mississippi Department of Education. Disputes between LEAs and MDCPS regarding implementing the local transportation procedures, calculating, and paying for additional costs of transportation to the school of origin for children in foster care, or other transportation disputes will be resolved by a three-person panel. The panel

will include the Mississippi Department of Education’s foster care point of contact, another SEA staff, and a MDCPS point of contact. Either an LEA or a MDCPS can bring a transportation payment dispute to the SEA by submitting a dispute resolution request to the SEA foster care point of contact via an email with the subject “Foster Child Dispute Appeal.” The dispute resolution request must include:

- A complete explanation of the basis of the dispute, with all pertinent facts.
- The name and contact information of the people who have been addressing the dispute thus far on behalf of both the LEA and the local child welfare agency (phone, email, and mailing address).
- Details of how the agencies have attempted to resolve the dispute at the local level prior to appealing to the state.
- Within ten (10) days of receipt of the dispute resolution request, the SEA foster care point of contact will contact the party that did not submit the request (either the LEA or MDCPS) identifying the subject matter of the dispute and inviting that party to submit any information pertinent to the dispute.
- The party will have ten (10) days to submit its explanation of the dispute, with all pertinent facts.
- Documents submitted by either party after the applicable deadlines will not be considered.
- The panel shall make a final decision within thirty (30) days of receiving all information related to the dispute.
- The SEA foster care contact will forward the written decision and an explanation of that decision to the appropriate parties at both the LEA and MDCPS. The district of origin must ensure that a child in foster care receives transportation to and from the school of origin in a cost-effective manner until disputes are resolved.
- The decision shall be the final resolution.

Best Determination Sample Form
Transportation Sample Form

Best Interest Determination Sample Form

The presumption is that a student will remain in the current school; a student should only change schools if remaining in the current school is not in their best interest. The caseworker or custodial agency point of contact should complete this worksheet in collaboration with school personnel and other supportive adults in the child's life. For continuity of care, this worksheet and all supporting documentation are to be maintained in the child's records.

- Report cards and progress reports
- Discipline records
- Student achievement
- Evaluations
- Attendance data
- Written input from absent participants
- IEP or 504 plan
- Transcript with current credits, if in high school
- Other: _____

MSIS ID: _____

Current District/School: _____

Potential New District/School: _____

Schools the Student Previously Attended (if known):

Supporting Documentation Attached:

Guide to Determine Student's School Placement

1. How long has the student attended this school? How well is he or she performing academically?
2. How many schools has the student attended over the past few years? This year? How have past school transfers impacted the student?
3. How is the current school serving the student's academic needs, including gifted or special education, vocational opportunities, and other interests? How could the new school serve these needs?
4. What are the student's academic and career goals? How would changing schools affect the student's ability to earn full academic credit, proceed to the next grade, graduate on time or receive an industry credential?
5. How is the current school serving the student's social, emotional, and cultural needs? Does the student access school-based supportive services? How could the new school serve these needs?
6. Describe the nature, quality, and duration of the student's relationships in the current school. Specifically consider whether the student has a meaningful and supportive relationship with an adult at the school of origin. Consider where the student's siblings go to school, if applicable.
7. Does the current school climate support the student's needs? Does the student have peer support? Is he or she involved in extracurricular or other activities?
8. Is the student's new living arrangement expected to be short- or long-term? How is this impacted by the school selection?
9. How would the commute to the current school impact the student? Consider the child's age and developmental functioning as well as the length of the commute with various modes of transportation (e.g., car, school bus).

Note: The cost of transportation cannot be a factor when determining best interest.

10. If the student must change schools, is it possible to time the transfer so that it coincides with the end of the quarter/semester/school year or following an event that is significant to the student? Consider the academic calendars of the new school and the current school.

11. What other factors did the team consider when making this decision?

Determination at end of meeting:

Initial Placement or Change in Placement

It is in the best interest of the student to remain in the school of origin.

- A permanent transportation plan for the student should be in place within five school days of the best interest determination, per the agreed upon transportation procedure.
- While permanent transportation is arranged, interim transportation must be provided to ensure there is no disruption in the student's education.

It is in the best interest of the student to not remain in the school of origin.

- The student will be immediately enrolled in the new school. The new school will request the student's records the same day from the school of origin. Enrollment means attending and actively participating in class.
- The school of origin will send all of the student's records within one school day (e.g., cumulative record, grades, reading plan, IEP, etc.).
- If the student is currently receiving special education services, he/she will need to continue special education services the receiving school district.

Date of Meeting: _____

Meeting Facilitator: _____

Child's Name: _____

Grade: _____

Custodial agent representative and contact information:

TRANSPORTATION TO ENSURE SCHOOL STABILITY

Individual Student Procedures

Child's Name: _____ Date of Birth: _____ Grade: _____

MSIS ID: _____

Custodial Agent Caregiver (name and contact information):

Caregiver (name and contact information):

Educational Surrogate, if applicable (name and contact information):

District: _____

District foster care point of contact (name and contact information):

Case worker (name and contact information):

The custodial agency verifies that:

1. It is in the student's best interest to remain in the school of origin based on the following factors:

2. The child eligible under Title IV-E from the Mississippi Department of Child Protection Services: _____ Yes _____ No

a. If YES, reimbursement for some funding of transportation costs:

___ will be pursued

___ cannot be pursued for this reason:

3. The following was executed to identify a no-cost or low-cost transportation service:

The district verifies that:

4. There is an existing transportation option that can serve the student's new housing placement.

_____ Yes _____ No. If YES, what is the option? _____

The district and Mississippi Child Protection Services agree that the most cost effective transportation procedures for this student will be:

The district and Mississippi Child Protection Services agree that while permanent transportation is arranged, interim transportation arrangements will be:

These transportation procedures were agreed to on the following date: _____
and will be implemented within five days, by the following date: _____.

Authorized Signature for [Mississippi Child Protection Services]:

Authorized Signature for [Local Education Agency]:

DISPUTE RESOLUTION APPEAL SAMPLE FORM

DISPUTE RESOLUTION TO STATE LEVEL POINT OF CONTACT TEMPLATE

To appeal the district's decision to the Mississippi Department of Education and Mississippi Department of Child Protection Services, please complete this form and submit it by the date indicated on the Written Notice you received from the school. You may submit this form by any of the following methods:

- Scan and email it to TKersh@mdek12.org with the subject "Foster Child Dispute Appeal" to Toni Kersh, Mississippi Department of Education, Foster Care Point of Contact;

OR

- Return the paper form to Toni Kersh, Mississippi Department of Education, Foster Care Point of Contact at 359 N. West Street, Jackson, MS 39201

Student Name: _____

School in which enrollment is sought: _____

I am the educational decision-maker for this student, and I believe the school in which we are seeking enrollment is in the student's best interest because:

I believe the student has a right to attend this school because:

If you would like to provide additional information, please attach it to this form. The student shall remain in the school of origin, receiving all appropriate educational services including transportation, until the dispute reaches its final resolution.

Educational decision-maker name: _____

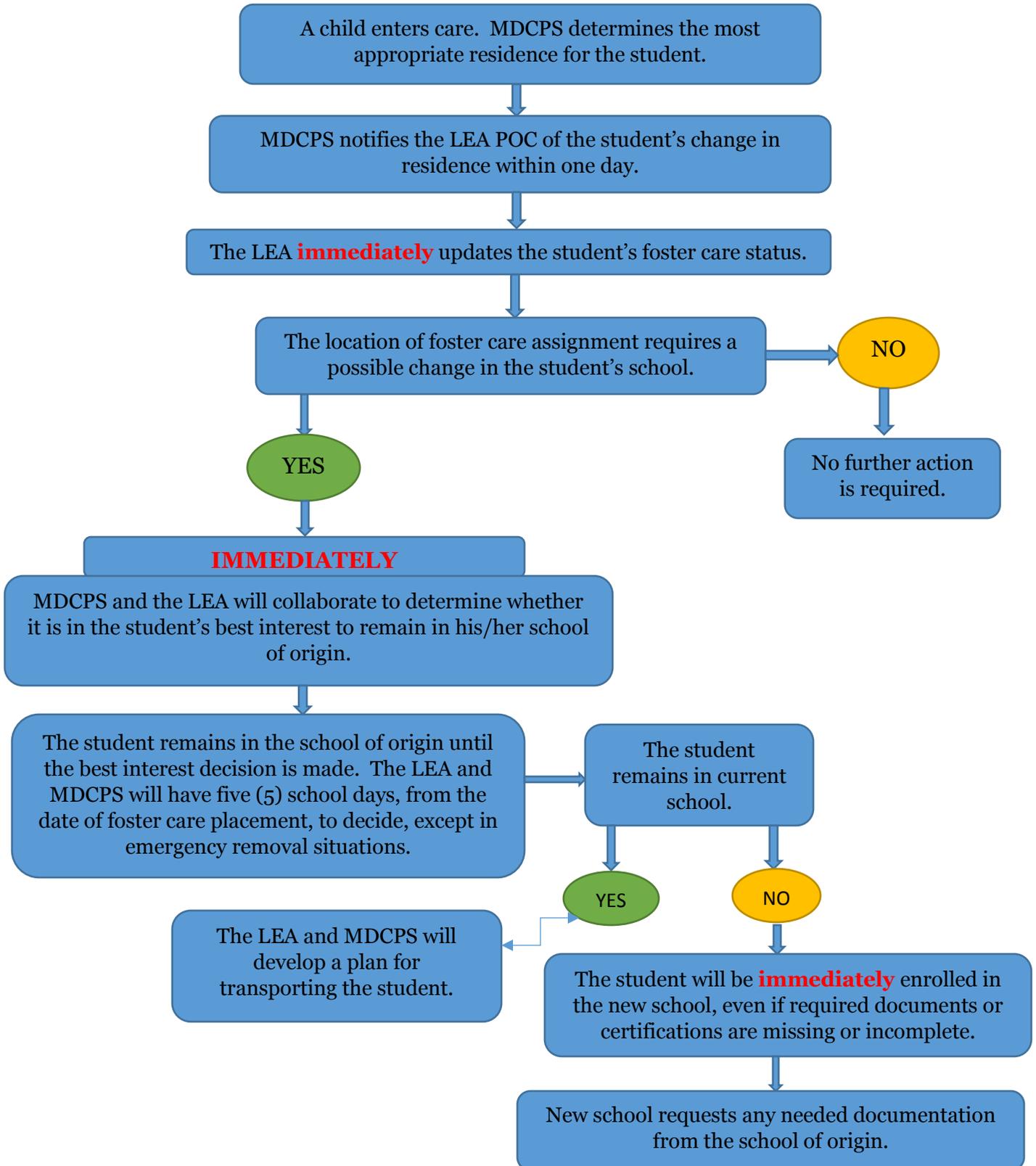
Email: _____

Phone: _____

Note: The process outlined on page 13, of this document, will be followed.

EDUCATIONAL STABILITY *for* CHILDREN *in* FOSTER CARE

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CONTACT INFORMATION

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Mississippi Department Child of Protective Services-State Foster Care Point of Contact
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Joint Guidance and Technical Assistance

Issued **Joint Guidance** on June 23, 2016
<http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatoryguide.pdf>

Issued **Dear Colleague Letter** on December 05, 2016
<http://www2.ed.gov/policy/elsec/leg/essa/index.html>

Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351)

<https://www.childwelfare.gov/topics/systemwide/laws-policies/federal/fosteringconnections/>

Title IV-E Foster Care

<https://www.acf.hhs.gov/cb/resource/title-ive-foster-care>