



STATE OF NEW JERSEY
DEPARTMENT OF CHILDREN & FAMILIES AND
DEPARTMENT OF EDUCATION

To: Chief School Administrators

Cc: Executive County Superintendents

From: Rochelle R. Hendricks, Acting Commissioner
Department of Education

Allison Blake, Commissioner
Department of Children & Families

Subject: What You Need to Know About the Educational Stability Law

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In October 2008, the federal government enacted a new law - the Fostering Connections to Success and Increasing Adoptions Act - requiring all states to ensure educational stability for children placed in resource family homes. As a result, Title 18A and Title 30 were amended, and the Governor signed these amendments into law on September 9, 2010, to comply with the federal Act. P.L. 2010, c. 69. The Department of Children and Families (DCF), the Department of Education (DOE) and the Office of the Child Advocate (OCA) worked together on the most meaningful approach to implement the new law. This memo includes important background information on the new educational stability law, information on district operational steps for educational stability, and troubleshooting contact information in the event that implementation challenges occur.

For children, changing schools can affect their ability to thrive academically, socially, behaviorally and psychologically. This is especially true for children in resource family homes. For these children - who often suffer the lingering affects of abuse or neglect and the trauma of being removed from their homes and families - school can often be the most stable part of their lives.

Our Goal Is Educational Stability

To achieve educational stability, the new law: 1) creates a presumption that a child being placed in a resource family home will remain in the school he/she is currently attending unless changing schools would be in the child's best interest; 2) establishes a process for resolving disputes over educational placement

determinations; and 3) modifies the definition of district of residence for children placed in resource family homes.

When a child is placed in a resource family home, the child will continue to attend the school he/she is currently attending while a best interest determination is being made, unless remaining in the school poses significant safety concerns or would otherwise present an immediate and significant detriment to the child, such as traveling an extraordinary distance to and from school. Where significant safety concerns and/or detriment exist for the child, the Division of Youth and Family Services (DYFS) may immediately enroll the child in the resource family home's school district and the right of appeal outlined below does not apply. DYFS case workers are required to complete a best interest evaluation to determine whether the child's best interests are served by remaining in the current school or by transferring to the school district where the resource family home is located. In making this determination, the DYFS representative must consult with the child, the child's law guardian, the parent or guardian, and representatives from the affected school districts and consider the factors specified in the law. The best interest factors are:

- a. Safety considerations;
- b. Proximity of the resource family to the child's present school;
- c. Age and grade level of the child as it relates to the other best interest factors;
- d. The needs of the child, including social adjustment and well being;
- e. The child's preference;
- f. The child's educational performance, continuity of education and engagement in the school the child currently attends;
- g. The child's special education programming if the child is classified;
- h. The point of time in the school year;
- i. The child's permanency goal and the likelihood of reunification;
- j. The anticipated duration of the current placement; and
- k. Such other factors as provided by regulation of the Commissioner of Children and Families.

Pursuant to law, parents and children have the right to appeal DYFS' educational placement decision. Should a parent or child (through his or her law guardian) disagree with the educational placement decision made by DYFS, either may file an application to the court where the related child protection litigation is currently pending. This application must be filed within five business days of DYFS issuing its determination. The court will hold a hearing on an expedited basis and issue a decision determining which education placement is in the child's best interests. While the appeal is pending, the child's school will not be changed. The child's best interests may be reconsidered by the court throughout the time that the child remains in the resource family home to accommodate any change in circumstances.

- Participating in the best interest determination;
- Identifying a staff person to serve as a contact person for the DYFS educational stability liaison to ensure a seamless transition;
- Transferring student records in accordance with N.J.A.C. 6A:32;
- Assisting in arranging transportation if requested by the educational stability liaison; and
- Contacting the County Office of Education regarding any issues or concerns.

Transportation: Because the new federal law changes the definition of a child's district of residence, a different district may be required to provide for transportation of the child to and from school. The district of residence must determine if the child is eligible for transportation services and arrange for those services. To ensure a smooth transition, the law places the responsibility for the provision of, and payment for, transportation on DYFS for the first five days after the placement decision is made.

To make the transition easier for the child during this time period, the DYFS caseworker (or education liaison) should seek assistance in arranging transportation from the school district that the child attends based on the best interest determination at the same time that DYFS provides its notification. If the child is eligible for transportation and the school district agrees to arrange and provide the transportation, the school district can bill DYFS for the transportation costs for the period of time that DYFS is financially obligated to pay for the service. Requesting that the school district assist in arranging the child's transportation at the outset minimizes the risk of the child's transportation being interrupted when the responsibility to provide transportation transitions from DYFS to the child's resident school district.

Beginning on the sixth school day after a child's educational placement is determined, the child's district of residence becomes responsible for the provision of any mandated transportation services. Should the district be unable to provide the transportation service at that time, DYFS will continue to provide transportation and will bill the school district for the additional service.

Troubleshooting: In the event that problems arise regarding any of the above processes, DYFS educational liaisons and local school district representatives should first seek assistance from the County Office of Education. If the matter cannot be resolved with the assistance of the county office, DYFS educational liaisons should contact the DYFS Statewide Educational Stability Administrator. County Office of Education staff should contact the Office of Student Transportation or the Division of Student Services depending on the nature of the issue to be resolved. Your cooperation and partnership is appreciated and will help to ensure educational stability for New Jersey's children in foster care.

DYFS is responsible for transporting children from their resource family homes to their schools from the time the child is placed in a resource family home through five school days after a final determination about school placement is made by either DYFS or the court, if an application for court review is made. Five school days after DYFS advises the affected school districts of its determination, the district of residence becomes responsible for providing transportation.

Finally, because children in resource family homes will now increasingly remain in the schools they currently attend, the law was amended to change the definition of district of residence for children placed in resource family homes on or after the effective date of the law (September 9, 2010). The district of residence is the district where the child's parent or guardian resides. Formerly, the law identified the school district serving the resource family home where the child was placed as the district of residence. The law was amended to provide that the district of residence is responsible for continuing to educate a child within its own district or paying tuition for a child attending school in another district, and for providing for any needed transportation. Five school days after the best interest determination has been made, the district of residence must make arrangements for, and pay the cost of the transportation, wherever the child attends school.

While the DCF continues to maintain oversight of the processes involved in identifying and placing children in out of home placements, school districts play a critical role in maintaining the educational stability of a child placed in a resource family home. Outlined below are the responsibilities of DYFS and the potentially affected districts for a child placed in a resource family home under the new law:

DYFS: The DYFS Local Office supervising the child's case is responsible for the following:

- Determining if safety considerations or a significant deterrent to the child warrant the immediate enrollment of a child in the resource family home school district;
- Completing a best interest evaluation in consultation with the child, parent, law guardian, and school representatives considering the best interest factors set forth within;
- Providing notices to parties and interested schools advising of the best interest determination;
- Ensuring children are properly enrolled in school;
- Arranging for and provide the cost of transportation during the initial period of placement (until five days after a final best interest determination has been made);
- Where possible, coordinating transportation with the District of Residence, to ensure efficient and continuous transportation for the child; and

- Contacting the County Office of Education or DYFS Statewide Education Stability Administrator regarding any issues or concerns.

District of Residence: The district of residence (the district in which the parent or guardian resides) is responsible for the following:

- Identifying a staff person to serve as a contact person for the DYFS educational stability liaison;
- Requesting a determination of residency, if necessary;
- Collaborating with DCF in the best interest determination;
- Arranging for, and providing the cost of transportation for the child to attend school in another district as identified in the best interest determination (five school days after a best interest determination has been made);
- Where possible, assisting DCF to arrange transportation during the initial placement period when the cost is paid by DYFS;
- Promptly providing student records in accordance with N.J.A.C. 6A:32;
- Maintaining the student on the district's register;
- Contacting the County Office of Education regarding any issues or concerns; and
- Tuition payments to the district or school providing the child's education;

Resource Family District: The resource family district (the district in which the resource family is located) is responsible for:

- Participating in a best interest determination, if requested;
- Identifying a staff person to serve as a contact person for the DYFS educational stability liaison to ensure a seamless transition into the district;
- Ensuring *immediate* enrollment for a child placed in a resource family home where a safety concern or a significant detriment exists that make that child's current school not in the child's best interest;
- Upon enrollment, requesting a transfer of records in accordance with N.J.A.C. 6A:32;
- Assisting in arranging transportation, if requested by the educational stability liaison; and
- Contacting the County Office of Education regarding any issues or concerns.

District that the Student Currently Attends: The district that the student currently attends may be the same as the district of residence (see above). If the child is being removed from one resource family home and placed in another resource family home, the current school district may not be the district of residence, if the parent or guardian lives elsewhere. In such a case, the district that the student currently attends is responsible for: