

School Stability for Children in Foster Care

**Since this post was originally published, NC DHHS Division of Social Services has enacted a policy to address the issue of educational stability for children in foster care, which you can access [here](#) (see section XIII).*

It's September, which means that children have gone back to school. When the school year starts, most children know which school they are attending. But, a child who has been removed from his home and placed in foster care may not know which school he will be going to. Is it the old school? Is it a new school where the placement is located? If a child experiences multiple placements, does the child change schools each time the placement is in a different school district? Changing schools impacts children. That impact may be even more significant when a child is also experiencing a change in both her home environment and caretaker. As of December 12, 2016, a new federal education law goes into effect that prioritizes educational stability for children in foster care. But educational stability for a child in foster care is something that can be addressed now.

How Many Children Are Affected?*

In NC, 15,680 children were in foster care between April 2015 and March 2016. More than half of those children (8,498) were school age (6-17 years old). The average length of time a child was in foster care in NC between July 2014 and June 2015 was 453 days or 15 months. Approximately two out of three of those children experienced at least two placements: 25% had two placements, 14% had three placements, and 23% had four or more placements. With each placement, school enrollment is an issue that needs to be considered.

North Carolina School Attendance Laws

Children between the ages of 7 and 16 years old must attend school under NC's compulsory attendance law. [G.S. 115C-378\(a\)](#). The compulsory attendance law also applies to a child who is younger than 7 years old and is enrolled in Kindergarten, first or second grade. *Id.* Under NC law, children may enroll in school at 5 years old. [G.S. 115C-364](#).

The general rule about school assignment is that a student attends the school district where he or she is domiciled. [G.S. 115C-366\(a\)](#). Unlike NC social services law, domicile is not defined in the NC education laws. Except children who are placed in a preadoptive home by a county department or child-placing agency or who reside with a legal custodian who is not the child's parent or guardian are domiciled in the local school unit where the preadoptive home is located or where the legal custodian is domiciled. [G.S. 115C-366\(a8\)](#). Children who are placed in a licensed foster home are eligible to attend the school district where the foster home is located. [G.S. 115C-366\(h\)\(4\), \(7\)](#); see [G.S. 131D-10.3](#). And, children who are living in an institution that has the purpose of rearing and caring for children who do not live with their parents are eligible to attend the local school unit

where the institution is located. [G.S. 115C-366\(a1\)](#). These laws make it so that a child becomes a resident of the school district where each placement is made, causing the child to experience school mobility (or disruption).

Impact of School Mobility**

Children in foster care who move schools may experience enrollment delays; a loss of educational support services (including special education instruction, supportive services, and language services); and for high school students, difficulty in transferring course credit. Children in care who transfer schools lose four to six months of academic progress with each change in school placement. Children in foster care are more likely to be retained, suspended, and/or expelled; drop out; and perform poorly on standardized tests. In addition to the academic disruption, children who move schools also lose natural supports that exist in their original school, such as siblings, peers, or trusted adults like teachers, counselors, and/or coaches.

School Stability: The Federal Laws

In 2008, the [Fostering Connections Act](#) required child welfare agencies to address school issues and educational stability in a child's case plan, but the law did not apply to school districts. Under the December 2015 [Every Student Succeeds Act \(ESSA\)](#), Congress reauthorized and amended the Elementary and Secondary Education Act (ESEA) and specifically addressed the educational stability of children in foster care.

Under ESSA, by December 10, 2016, NC's Department of Public Instruction (DPI) and DHHS Division of Social Services must collaborate to ensure that children in foster care **remain in their school of origin** (the school the child was last enrolled) unless remaining in the school of origin is not in the child's best interests. 20 U.S.C. § 6311(g)(1)(E)(i); see also [42 U.S.C. § 675\(1\)\(G\)](#). When it is not in a child's best interests to remain in his or her school of origin, the child must be **immediately enrolled** in the new school, even if the child's educational records are not available at the time of the child's enrollment. 20 U.S.C. § 6311(g)(1)(E)(ii). The new school must immediately contact the child's former school to obtain relevant educational records. 20 U.S.C. § 6311(g)(1)(E)(iii).

The **best interest of the child determination** is made by the child welfare agency (e.g. county department of social services). In making its determination, the county department must consider all related factors including the appropriateness of the current educational setting and the proximity of the school of origin to the placement. 20 U.S.C. § 6311(g)(1)(E)(i); see also 42 U.S.C. § 675(1)(G)(i). Additional best interest of the child factors have been identified in [Non-Regulatory Guidance](#) issued jointly by the US DHHS and US DOE on June 23, 2016 and include the

- child's preference and the parent's or educational decision maker's preference,
- placement of siblings,

- child's attachment to the school (including meaningful relationships there),
- child's history of school transfers and how they impacted the child,
- influence of school climate on the child, including safety,
- length of commute and impact on the child based on the child's developmental stage, and
- the availability and quality of services (including special education, related, and language services) in the school that will meet the child's educational and socioemotional needs.

Transportation costs are not a factor. The ESSA requires the state to develop and implement clear written procedures addressing transportation issues, including who bears the cost (the school, the county department, or both), for children in foster care who are continuing to attend their school of origin while they are in foster care. 20 U.S.C. § 6312(c)(5)(B). The plan must also ensure that children in foster care who need transportation to their school of origin will promptly receive that transportation. *Id.*

ESSA is different from the McKinney-Vento Homeless Student Act, and actually removes from the definition of homeless student children who are awaiting foster care placement. 42 U.S.C. § 11434a(2)(B)(i). ESSA requires its own procedures and its own state coordinator at DPI who will be a contact person for county departments and who will oversee the state's implementation of ESSA. 20 U.S.C. §6311(g)(1)(E)(iv).

Although the county department makes the best interests determination, **school enrollment is part of the child's case plan**. 42 U.S.C. § 675(1)(G). The case plan is developed jointly with the child's parent or guardian and is written within 60 days of a child coming into care. [45 C.F.R. § 1356.21\(g\)](#). If a party in an abuse, neglect, or dependency proceeding believes the county department has made a decision that is contrary to the child's best interests that party may want to **raise the issue with the court**. The court enters orders that make an appropriate plan that meets the child's needs and is based on the best interests of the child. [G.S. 7B-900; -100\(2\), \(5\)](#). Part of that appropriate court plan may be an order that determines it is in the child's best interests to remain in the school of origin. Or, the court may order the child's placement within the geographic area for the child's school of origin. When making a placement decision, the court must consider whether it is in the child's best interests to remain in his or her community of residence. [G.S. 7B-505\(d\); -903\(a1\)](#). One factor may be the proximity of the placement to the child's school of origin.

It's clear from the two federal laws (Fostering Connections and ESSA) that Congress prioritizes minimizing school mobility for children in foster care by keeping that child in the school of origin.

**Data was retrieved on 9/20/16 from [UNC Chapel Hill Jordan Institute for Families website](#): tables by Duncan, D.F., Kum, H.C., Flair, K.A., Stewart, C.J., Vaughn, J.S., Guest, S., Rose, R.A., Gwaltney, A.Y., and Gogan, H.C. (2016). Management Assistance for Child Welfare, Work First,*

and Food & Nutrition Services in North Carolina (v3.2).

******[Fostering Success in Education: National Fact Sheet on the Educational Outcomes of Children in Foster Care](#), January 2014. See also *Legal Center for Foster Care and Education*, "[Questions and Answers: Credit Transfer and School Completion](#)."