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**NYS FIELD MEMO**  
**NCLB McKinney-Vento**  
**#5 - 2015**

**TO:** District Superintendents  
Superintendents of Public Schools  
Charter School LEA Administrators

**FROM:** Ira Schwartz   
Assistant Commissioner Office of Accountability

**DATE:** August 27, 2015

**RE:** School Transportation for Students in Foster Care

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The purpose of this guidance document is to provide information to child welfare staff of local departments of social services (LDSS), voluntary agencies (VA), and local educational agencies (school districts, charter schools, and Boards of Cooperative Educational Services [BOCES]) about the provision of transportation to and from school for children placed in foster care.

**Background**

The federal Fostering Connections to Success and Increasing Adoptions Act [P.L. 110-351] (“Fostering Connections”) has important provisions that promote educational stability for children in foster care. In particular, it requires that child welfare agencies<sup>1</sup> collaborate with school districts to ensure that children in foster care can stay in their same school unless the child welfare agency determines that it is not in the best interests of the child to remain in the school in which the child is enrolled at the time of foster care placement or any subsequent change in foster care placement.

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<sup>1</sup> Child welfare agency refers to:

- the local department of social services with care and custody or custody and guardianship of the child, or
- the voluntary agency, which is a private entity that has contracted with the local department of social services to provide foster care and case management services.

In most cases, the term “child welfare agency” refers to the local department of social services, but in cases where a voluntary agency is providing foster care and case management services, then this term refers to the voluntary agency.

The New York State Education Department's (NYSED or "the Department") 2012 Field Memo on Fostering Connections, available here:

[http://nysteachs.org/media/INF\\_SED\\_EdStabilityGuidance2012.pdf](http://nysteachs.org/media/INF_SED_EdStabilityGuidance2012.pdf), provided important information about how school stability significantly contributes to the well-being of children in foster care, the role of the child welfare agency, and the role of school districts. As previously stated, unless the child welfare agency makes a determination that it is not in the child's best interests to stay in the same school, the child should remain in the school in which he or she is enrolled at the time of placement in foster care, or any subsequent change in foster care placement, even if the foster care placement is outside of the district. The questions and answers in this memorandum address how transportation should be arranged in such cases.

### **School Transportation**

- 1. Q.** If a student attends school in District A ("district of residence") at the time he or she is placed in a foster home located within District A's boundaries, who is responsible for transporting the student to school?

**A.** District A. The district of residence must arrange for transportation consistent with its policies for resident students.
- 2. Q.** If the same student is placed in a foster care setting located in District B ("district of location"), outside of District A's boundaries, and the child enrolls in District B's schools, who is responsible for transporting the student to District B's schools?

**A.** District B. The district of location, which in this situation is District B, is responsible for providing educational services to the student, including transportation, and District A, the district of residence at the time the student entered foster care, is responsible for the cost of the services pursuant to Education Law §3202(4)(a).
- 3. Q.** If the same student is initially placed in a foster care setting located in District B outside of District A's boundaries, is subsequently moved to a foster care placement in District C, also outside of District A's boundaries, and enrolls in District C's schools, who is responsible for transporting the student to District C's schools?

**A.** District C. The district of location, which in this situation is District C, is responsible for providing educational services to the student, including transportation, and District A, the district of residence at the time the student entered foster care, is responsible for the cost of the services pursuant to Education Law §3202(4)(a).

4. Q. If the same student is placed in a foster care setting located in District B (“district of location”), outside District A’s boundaries, and maintains enrollment in District A, who is responsible for transporting the student to District A’s schools?
- A. In this scenario, the child welfare agency is responsible for developing a plan to ensure school stability and this should include a plan for how the student is to get to and from school. School districts are encouraged to collaborate with the child welfare agency in implementing the child’s school stability plan. For example, a school district could accommodate the student on an existing school bus route where possible and/or enter into a contract with the child welfare agency to provide the transportation for the student. In a joint letter issued in May 2014, available here: <http://www2.ed.gov/about/inits/ed/foster-care/fostering-connections-letter.doc>, the U.S. Departments of Education and Health and Human Services specifically stated that school districts have an obligation to "collaborate and coordinate" with social service districts to ensure school stability for students in foster care.
5. Q. What funding is available to a local social services district to offset the cost of transporting a student in foster care to and from school?
- A. If a local department of social services pays for the cost of transportation through a contract with a private bus company, the voluntary authorized agency, or a school district, it can authorize these payments under WMS Purchase of Services code “72-Transportation - For Regular School Attendance When Public Transportation is Necessary.”<sup>2</sup> The local department of social services is eligible for federal reimbursement up to 50% of the cost of transportation for students in foster care who are eligible under Title IV-E of the federal Social Security Act. However, there is no federal funding available for transportation costs related to students in foster care who are not eligible under Title IV-E. The local department of social services may claim state funding up to the amount available under the New York State Foster Care Block Grant. Any transportation costs not reimbursable by federal Title IV-E or state Foster Care Block funds are the responsibility of the local department of social services. If a local department of social services is seeking federal reimbursement for transportation expenses incurred without a contract (e.g., car service/taxi; LIRR, MetroNorth, MetroCard, or other public transportation pass; or mileage reimbursement for a foster parent who uses his/her own car), it should contact Joanne Trinkle ([Joanne.Trinkle@ocfs.ny.gov](mailto:Joanne.Trinkle@ocfs.ny.gov)) at the Office of Children and Family Services.

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<sup>2</sup> WMS refers to the Welfare Management System, which is the electronic system local departments of social services use to track public benefits, including some related to foster care.

6. **Q.** Can the child welfare agency contract with the school district or a local vendor to provide the transportation?
- A. Yes. The child welfare agency may contract with the school district or a local vendor to provide the transportation. It may be more cost-effective and/or efficient for a child welfare agency to contract with one vendor to transport all students in foster care in the county rather than enter into separate contracts with each school district. Moreover, the local department of social services may find it is more cost efficient to contract with one vendor for its transportation needs for students in foster care, children receiving preschool special education services, and/or students placed in emergency housing or shelters. In other cases, it may be more cost-effective to contract with the school districts to provide the transportation, depending on the circumstances.
7. **Q.** Are school districts required to contract with child welfare agencies to provide transportation for students in foster care?
- A. No, there is no requirement that a school district enter into a contract with a child welfare agency for the provision of transportation. However, school districts are strongly encouraged to collaborate with the child welfare agency to ensure school stability for students in foster care. In addition to contracting with child welfare agencies to provide transportation, there are other ways in which school districts can collaborate with child welfare agencies. For example, if a child welfare agency could transport a student who was placed in foster care outside of the school district to an existing bus stop for the school district, a point within school district boundaries, or to a school outside of the district (i.e. a BOCES program), the school district is encouraged to accommodate the student on one of its existing bus routes where possible.

Questions regarding this Field Memo should be directed to:

- Student Support Services, State Education Department, (518) 486-6090
- Title I School and Community Services, State Education Department, (518) 473-0295
- Office of Children and Family Services, Joanne Trinkle, [Joanne.Trinkle@ocfs.ny.gov](mailto:Joanne.Trinkle@ocfs.ny.gov)