TO: District Superintendents, Superintendents of Public Schools and Charter School LEA Administrators

FROM: Kathleen R. DeCataldo

DATE: August 21, 2018

SUBJECT: Educational Stability of Students in Foster Care New Law and Guidance Toolkit

This guidance is being issued by the New York State Education Department (“NYSED” or “the Department”) to provide important information about the recent legislation passed as a part of the 2018-19 budget (Part CC of Chapter 56 of the Laws of 2018) to adopt in state law certain requirements of Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the federal Every Student Succeeds Act (ESSA) of December 2015 and clarify the requirements for school districts and charter schools (local educational agencies or “LEAs”) and local departments of social services (“LDSS”). See Appendix A.

The Department in collaboration with the Office of Children and Family Services has developed guidance and resources to assist school districts and LDSS in meeting the new requirements for ensuring educational stability for students in foster care. The guidance and resources are in a toolkit which may be accessed on NYSED’s Foster Care web (http://www.p12.nysed.gov/sss/pps/fostercare.html) page and is also attached here as Appendix B.

Background

Children in New York are removed from home to avoid “imminent danger to the child's life or health”1 due to, for example, physical and sexual abuse, neglect and abandonment. Children removed from home also experience rupture of relationships with caregivers and other family members, loss of friends and familiar surroundings and loss of daily routines.2 Children in foster care, compared to their peers not in care, have higher rates of grade retention, lower scores on standardized tests, higher rates of absenteeism, tardiness and truancy, and are more likely to drop out of school.3 Children in care experience 3 to 4

---

1 New York State Family Court Act §1022.
2 Walker & Weaver, 2007
3 Pecora et al., 2005; Smithgall et al., 2004; Vera Institute, 2004; Yu, Day & Williams, 2002.
changes in placements while in care (median) and 1 to 2 placement changes per year (average).\textsuperscript{4} School mobility, the usual result of a change in placement, disrupts exposure to key concepts, is linked to lower tests scores and repeating grades, and is linked to dropping out of school.\textsuperscript{5} Keeping children in the same school when removed from home maintains connections with teachers, friends, the school nurse, school counselors, coaches, extracurricular activities and provides consistency in curriculum. Students who feel connected to their schools are more likely to succeed academically and graduate, less likely to be truant, be involved in fighting and bullying, less likely to use substances or become pregnant.\textsuperscript{6}

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections) and ESSA require state and local education agencies to collaborate with state and local departments of social services to promote school stability and educational success for students in foster care.

In 2015, the Field Memo titled \textit{“School Transportation for Students in Foster Care”}, addressed how transportation should be arranged in different scenarios for students placed in foster care, including situations involving a student being placed in a foster care setting that is located in a different school district than where the student attended school at the time of placement. To the extent that memo provided recommendations for how transportation for students placed in foster care should be arranged and paid for that differs from the requirements of Chapter 56 of the laws of 2018, Part CC, it is superseded by the new law.

\textbf{Definitions}

\textbf{Student in Foster Care}: a child who is in the care and custody or custody and guardianship of a local commissioner of social services or the commissioner of the office of children and family services.

\textbf{School District of Origin}: the school district in which the student was attending a public school or preschool on a tuition-free basis or was entitled to attend at the time of placement into foster care.

\textbf{School District of Residence}: the school district in which the child is residing due to foster care placement.

\textbf{School District of Attendance}: The school district where the student placed in foster care is enrolled after a Best Interest Determination is made.

\textbf{School of Origin}: the school in which a child is enrolled at the time of placement in foster care. If a child’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 the placement change. For a student in foster care who completes the final grade level

\textsuperscript{4} Yu, Day & Williams, 2002; U.S. Department of Health and Human Services, 2005
\textsuperscript{5} Yu, Day & Williams, 2002; U.S. DHHS, 2005; Wood et al., 1993; Rumberger et al., 1999: Rumberger & Larson, 1998; Audette, Algozzine & Warden, 1993; Benson et al., 1979; Kerbow, 1996.
\textsuperscript{6} Lonzak et al, 2002; Samdel et al, 1998; Cannell et al, 1995; Schapps, 2003. (students in the general population.)
served by the school of origin, the term school of origin shall include the designated receiving school at the next grade level.

**Choice of District and School**

**Initial Placement in Foster Care:** The LDSS in consultation with the LEA which the student currently attends, shall designate either the school of origin or school district of residence for a student to attend, based upon a best interest determination made by the LDSS. The student is entitled to attend the school of origin, or any school in the district of residence where the foster care placement is located to which any other students in that district are entitled to attend, including a preschool. The student has the right to attend such school until the end of the school year in which foster care placement ends and for one additional year if that year is the terminal year for the student in that school building.

**Subsequent Changes in Foster Care Placement and Continuing Educational Stability:** The right of a student to educational stability continues through subsequent changes in foster care placement. Based upon the best interest determination of the LDSS, a student in foster care who is moved from one foster care placement to another shall be entitled to attend the school in which the student was last enrolled or attended, or any school that children and youth who live in the attendance area in which the foster care placement is located are eligible to attend, including a preschool. The student has the right to attend such school until the end of the school year in which foster care placement ends and for one additional year if that year is the terminal year for the student in that school building.

**Point of Contact**

Each LEA must designate a local Point of Contact for students in foster care. The point of contact designated may not be the same person as the McKinney-Vento liaison, unless it is determined that the McKinney-Vento liaison’s current duties and responsibilities permit these additional duties.

**Obligations of School District of Attendance**

**Immediate Enrollment:** If the LDSS determines that the student should attend the school district of attendance, the school must immediately enroll the student, despite the lack of records usually required by the district for enrollment, including proof of residency or immunization, and regardless of whether the student has missed application or enrollment deadlines; unless the student may be excluded temporarily pursuant to Education Law § 906 because of a communicable or infectious disease that imposes a significant risk of infection of others.

**Treatment of Student in Foster Care:** A student in foster care must be treated as a resident of the district for all purposes.
School Records Request: The school district must make a written request for the school records of the student to the district where the records are located.

Obligations of School District of Origin or District of Attendance

School Records Request: Within 5 days of receipt of a request for records of a student who has been placed, or changed placement, in foster care, the school district must forward a complete copy of the student’s records, including, but not limited to: proof of age, academic records, evaluations, immunization records and guardianship papers, if applicable.

Transportation by District of Attendance

Where the best interest determination designates the student’s school of origin as the school the student should attend, the district of attendance shall arrange for and provide transportation to and from the student’s foster care placement and the school of origin. Any cost incurred for transportation up to 50 miles shall be aidable, meaning the school district can receive Transportation State Aid for such costs.

Where the best interest determination designates the student will attend the school district of residence and not the school of origin, the school district of residence shall provide transportation to the student on the same basis as a resident student, and any cost incurred up to 50 miles shall be aidable.

Any excess allowable transportation costs associated with transporting a student in foster care (e.g., costs not reimbursed through State Aid, costs not reimbursed through Medicaid for students who receive related services at school billed through Medicaid) shall be split 50-50 between the school district and the social services district, unless they have a written agreement relating to how excess transportation costs should be funded. Excess allowable costs are defined as “the difference between what a school district 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”.

Tuition Reimbursement or Cost of Instruction:

The cost of instruction for a student in foster care is the responsibility of the school district of origin. The new law does not alter the tuition reimbursement mechanism already in place in Education Law §3202(4). It merely changes the terminology. Per Education Law §3202(4), the school district of origin must reimburse the school district of attendance for educational costs if the school district of attendance is not the school district of origin.

Schools are encouraged to thoroughly read the toolkit guidance and review the law with their district's counsel. Questions related to the toolkit may be directed to the following offices:
Transportation questions should be directed to the Office of Pupil Transportation at 518-474-6541 or transportation@nysed.gov

Other questions related to foster care should be directed to the Office of Student Support Services at 518-486-6090 or studentsupportservices@nysed.gov
PART CC

Section 1. The education law is amended by adding a new section 3244 to read as follows:

§ 3244. Education of children in foster care. 1. Definitions. For purposes of this section only, the following definitions shall apply:

a. Child or youth in foster care. For the purposes of this article, the term "child or youth in foster care" shall mean a child who is in the care and custody or custody and guardianship of a local commissioner of social services or the commissioner of the office of children and family services.

b. School district of origin. The term "school district of origin" shall mean the school district within the state of New York in which the child or youth in foster care was attending a public school or preschool on a tuition-free basis or was entitled to attend at the time of placement into foster care when the social services district or the office of children and family services assumed care and custody and guardianship of such child or youth, which is different from the school district of residence.

c. School district of residence. The term "school district of residence" shall mean the public school district within the state of New York in which the foster care placement is located, which is different from the school district of origin.

d. Feeder school. The term "feeder school" shall mean:

(1) a preschool whose students are entitled to attend a specified elementary school or group of elementary schools upon completion of that preschool;

(2) a school whose students are entitled to attend a specified elementary, middle, intermediate, or high school or group of specified elementary, middle, intermediate, or high schools upon completion of the terminal grade of such school; or

(3) a school that sends its students to a receiving school in a neighboring school district pursuant to section two thousand forty of this chapter.

e. Preschool. The term "preschool" shall mean a publicly funded pre-kindergarten program administered by the department or a local educational agency or a Head Start program administered by a local educational agency and/or services under the Individuals with Disabilities Education Act administered by a local educational agency.

f. Receiving school. The term "receiving school" shall mean:

(1) a school that enrolls students from a specified or group of preschools, elementary schools, middle schools, intermediate schools, or high schools; or

(2) a school that enrolls students from a feeder school in a neighboring local educational agency pursuant to section two thousand forty of this chapter.

g. School of origin. The term "school of origin" shall mean a public school that a child or youth attended at the time of placement into foster care, or the school in which the child or youth was last enrolled, including a preschool or a charter school. Provided that, for a child or youth in foster care who completes the final grade level served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools. Where the child is eligible to attend school in the
school district of origin because the child was placed in foster care after such child is eligible to apply, register, or enroll in the public preschool or kindergarten or the child is living with a school-age sibling who attends school in the school district of origin, the school of origin shall include any public school or preschool in which such child would have been entitled or eligible to attend based on such child’s last residence before the circumstances arose which caused such child to be placed in foster care.

2. Choice of district and school. a. Notwithstanding any other provision of law to the contrary, the social services district, in consultation with the appropriate local educational agency or agencies, shall designate either the school district of origin or the school district of residence within which the child in foster care shall be entitled to attend in accordance with a best interest determination made by the applicable social services district or voluntary authorized agency, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of the social services law, in accordance with the regulations of the office of children and family services. The child shall be entitled to attend the school of origin or any school that children and youth who live in the attendance area in which the foster care placement is located are eligible to attend, including a preschool, subject to a best interest determination made by the applicable social services district or voluntary authorized agency, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of the social services law, for the duration of the child’s placement in foster care and until the end of the school year in which such child is no longer in foster care and for one additional year if that year constitutes the child’s terminal year in such building.

b. Notwithstanding any other provision of law to the contrary, where the school district of origin or school of origin that a child was attending on a tuition-free basis or was entitled to attend when such child entered foster care is located in New York state and the child’s foster care placement is located in a contiguous state, the child shall be entitled to attend the school of origin or any school that children and youth who live in the attendance area in which the foster care placement is located are eligible to attend, including a preschool, subject to a best interest determination made by the applicable social services district or voluntary authorized agency, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of the social services law, for the duration of the child’s placement in foster care and until the end of the school year in which such child is no longer in foster care and for one additional year if that year constitutes the child’s terminal year in such building.

c. Notwithstanding the provisions of paragraph a or b of this subdivision, a child in foster care who is moved from one foster care placement to another shall be entitled to continue to attend the school of origin or the social services district may designate that the child in foster care attend any school that children and youth who live in the attendance area in which the foster care placement is located are eligible to attend, including a preschool, subject to a best interest determination made by the applicable social services district or voluntary authorized agency, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of the social services law, for the duration of the child’s placement in foster care and until the end of the school year in which the child is no longer in such foster care placement and for one
additional year if that year constitutes the child's terminal year in such building.

d. Upon notification of the designation made by the social services district for a foster care youth, the designated school district of attendance shall immediately:

(1) enroll the child or youth in foster care even if the child or youth is unable to produce records normally a requirement for enrollment, such as previous academic records, records of immunization and/or other required health records, proof of residency or other documentation and/or even if the child has missed application or enrollment deadlines during any period of placement in foster care, if applicable. Provided that nothing herein shall be construed to require the immediate attendance of an enrolled student lawfully excluded from school temporarily pursuant to section nine hundred six of this chapter because of a communicable or infectious disease that imposes a significant risk of infection of others;

(2) treat the child or youth in foster care as a resident for all purposes; and

(3) make a written request to the school district where the child's records are located for a copy of such records.

e. Within five days of receipt of a request for records in accordance with subparagraph three of paragraph d of this subdivision, the school district shall forward, in a manner consistent with state and federal law, a complete copy of the records of the child or youth in foster care including, but not limited to, proof of age, academic records, evaluations, immunization records, and guardianship papers, if applicable.

f. Where the school of origin is a charter school, the school district designated pursuant to this subdivision shall be deemed to be the school district of residence of such child for purposes of fiscal and programmatic responsibility under article fifty-six of this chapter and shall be responsible for transportation of the child in foster care. If the designated school district of attendance is not the school district of origin, the designated school district of attendance may seek reimbursement from the school district of origin in accordance with the provisions of subdivision four of section thirty-two hundred two of this article.

g. Notwithstanding any other provision of law to the contrary, each local educational agency, as such term is defined in subsection twenty-six of section ninety-one hundred one of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, shall designate a local educational agency point of contact for children and youth in foster care. Provided that such point of contact shall not be the same as the liaison designated pursuant to the subtitle B of title VII of the McKinney-Vento Assistance Act, unless the McKinney-Vento liaison has sufficient ability to carry out the responsibilities of the McKinney-Vento liaison in addition to the responsibilities of the point of contact for children and youth in foster care.

3. Reimbursement. The tuition costs of the education of such child or youth in foster care shall be borne in accordance with the provisions of paragraph d of subdivision four of section thirty-two hundred two of this article.

4. Transportation. a. Notwithstanding any other provision of law, any child or youth in foster care who requires transportation in order to attend a school of origin designated pursuant to subdivision two of this
section, shall be entitled to receive such transportation pursuant to this paragraph. The designated school district of attendance shall provide transportation to and from the child's foster care placement location and the school of origin. Any cost incurred for such transportation that is allowable up to fifty miles each way pursuant to the applicable provision of parts two and three of article seventy-three of this chapter or herein, shall be aidable pursuant to subdivision seven of section thirty-six hundred two of this chapter, provided that the approved transportation expense shall not exceed an amount determined by the commissioner to be the total cost for providing the most cost-effective mode of such transportation in a manner consistent with the commissioner's regulations.

b. Notwithstanding any other provision of law, where any child or youth in foster care attends the school district of residence and such child does not attend the school of origin, such school district shall provide transportation to such child on the same basis as a resident student. Any cost incurred for such transportation that is allowable pursuant to the applicable provisions of parts two and three of article seventy-three of this chapter or herein, shall be aidable pursuant to subdivision seven of section thirty-six hundred two of this chapter, provided that the approved transportation expense shall not exceed an amount determined by the commissioner to be the total cost for providing the most cost-effective mode of such transportation in a manner consistent with the commissioner's regulations.

c. Excess allowable transportation costs beyond those reimbursed in paragraphs a and b of this subdivision resulting from the attendance of a child or youth in foster care shall be shared between the social services district responsible for the foster care costs of the child or youth and the designated school district of attendance equally. Excess transportation costs shall mean the difference between what a school district 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; except as otherwise reimbursed under paragraph a or b of this subdivision and as further defined in regulations of the commissioner. The school district and local social services district are expected to consider and utilize all allowable funding sources, including any available federal funds, to cover additional transportation costs. Provided however that school districts and social services districts that have written agreements relating to how excess transportation costs should be funded, that both entities have agreed to and are consistent with the requirements in subparagraph five of paragraph c of section one thousand one hundred twelve of title twenty of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, filed with the department and the office of children and family services shall not be subject to this paragraph. In the absence of such a shared agreement, such school districts and local departments of social services are subject to the provisions of this paragraph.

d. Where the child has been placed in foster care in a contiguous state and has designated a school of origin located in the state of New York, the designated school district of attendance in New York state shall collaborate with the social services district to arrange for transportation.

5. Each child or youth in foster care to be assisted under this
section shall be provided services comparable to services offered to other students in the school selected under this section, including the following: transportation services; educational services for which the child or youth meets the eligibility criteria, such as services provided under Title I of the Elementary and Secondary Education Act of 1965 or similar state or local programs; educational programs for children with disabilities; educational programs for English learners; programs in career and technical education; programs for gifted and talented students; and school nutrition programs.

6. The commissioner, in consultation with the office of children and family services, may promulgate regulations to carry out the purposes of this section.

S. 7506--B                         24                         A. 9506--B

% 2. Subdivision 4 of section 3202 of the education law, as added by chapter 867 of the laws of 1973 and renumbered by chapter 563 of the laws of 1980, paragraph a, the opening paragraph of paragraph e, the opening paragraph of paragraph f and subparagraph (viii) of paragraph f as amended and paragraph f as designated by chapter 82 of the laws of 1995, paragraphs e and g as amended and subparagraphs (i), (ii), (iii), (iv), (v), (vi) and (vii) of paragraph f as added by chapter 170 of the laws of 1994, and paragraph g as relettered by chapter 82 of the laws of 1995, is amended to read as follows:

4. a. Definitions. For purposes of this subdivision only, the following definitions shall apply.

(i) The term "school district of origin" shall mean the school district within the state of New York in which the child or youth in foster care was attending a public school or preschool on a tuition-free basis or was entitled to attend when the social services district or office of children and family services assumed responsibility for the placement, support and maintenance of such child or youth, which is different from the school district of residence.

(ii) School district of residence. The term "school district of residence" shall mean the public school district within the state of New York in which the foster care placement is located, which is different from the school district of origin.

b. Except as provided in subdivision five of this section, the cost of instruction of [pupils placed in family homes at board by a social services district or a state department or agency] children in foster care shall be borne by the school district [in which each such pupil resided at the time the social services district or state department or agency assumed responsibility for the placement, support and maintenance of such pupil; provided, however, that such cost of instruction shall continue to be borne, while such pupil remains under the age of twenty-one years, by any social services district or state department or agency which assumed responsibility for tuition costs for any such pupil prior to January one, nineteen hundred seventy-four] of origin. Where a pupil is placed pursuant to this subdivision outside the pupil's school district of residence at the time of such placement] school district other than the school district of origin is designated in accordance with paragraph e of subdivision two of section thirty-two hundred forty-four of this article, the cost of instruction shall be borne by the [district of residence] school district of origin and the tuition paid to the designated school district [furnishing instruction] of attendance shall be computed as provided in paragraph d of this subdivision, except that, where the [family home at board] foster care place-
ment receives program support from a child care institution affiliated with a special act school district as defined in subdivision eight of section four thousand one of this chapter, and the designated school district of attendance, upon the recommendation of its committee on special education, contracts for such pupil's education pursuant to paragraph c, d, e, or f of subdivision two of section forty-four hundred one of this chapter or for a nonresidential placement pursuant to paragraph l of such subdivision, costs incurred shall be reimbursed in accordance with paragraph e of this subdivision. Notwithstanding any inconsistent provision of law, where the permanent residence of a pupil is outside of the state, the school district in which the pupil was located at the time the public agency placed such pupil shall be deemed the school district of origin of such pupil for purposes of this subdivision and shall be responsible for the cost of instruction of such pupil.

[b] c. Children cared for in free family homes and children cared for in family homes at board, when such family homes shall be the actual and only residence of such children and when such children are not supported and maintained at the expense of a social services district or of a state department or agency, shall be deemed residents of the school district in which such family home is located.

c. Children cared for in free family homes and children cared for in family homes at board, when such family homes are not the actual and only residences of such children and when such children are not supported and maintained at the expense of a social services district or of a state department or agency, and who apply for the first time for admittance to the schools of the district in which such family home is located during the school year 1973--1974 shall be admitted upon terms and conditions including the payment of tuition, established by the board of education of such school district, unless such board of education shall establish to the satisfaction of the commissioner that there are valid and sufficient reasons for refusal to receive such children.

d. For the purposes of this subdivision, tuition shall be fixed in an amount which represents the additional operating cost to the designated school district of attendance resulting from the attendance of a child for whom tuition is required, computed in accordance with a formula established by the commissioner of education.

e. Where the designated school district of attendance for a child or youth in foster care that receives program support from a child care institution affiliated with a special act school district, other than the board of the pupil's school district of origin as defined in paragraph a of this subdivision, upon the recommendation of its committee on special education, contracts for the instruction of such pupil pursuant to paragraph c, d, e, or f of subdivision two of section forty-four hundred one of this chapter or for a nonresidential placement pursuant to paragraph l of such subdivision, such board shall submit a claim to the commissioner for current year reimbursement of costs incurred for such pupil. The commissioner shall pay such claim in accordance with the applicable provisions of section thirty-six hundred nine-b of this chapter and shall be reimbursed by the school district identified as the pupil's school district of origin as
f. The identity of the school district of [residence at the time the public agency placed the pupil pursuant to paragraph a or paragraph e of this subdivision] [origin] shall be established in accordance with the following procedure:

(i) Within ten days of the placement of such pupil, the public agency or its designee shall give written notice of such placement to the board of education of the school district believed to be the school district of [residence] [origin]. Such notification shall include the name of the pupil and any particulars about the pupil that pertain to the identification of the school district as the school district of [residence] [origin] as defined in paragraph a of this subdivision.

(ii) A board of education of a school district which receives notification pursuant to subparagraph (i) of this paragraph may submit to the public agency, within ten days of its receipt of such notice, additional evidence to establish that it is not the pupil's district of [residence] [origin] as defined in paragraph a of this subdivision. Any evidence so submitted shall be considered by the agency prior to making its final determination, which shall be made no later than five days after the agency's receipt of such additional evidence. In the event such school district fails to submit additional evidence within such ten day period, the determination of the public agency shall be final and the notification provided pursuant to subparagraph (i) of this paragraph shall be deemed final notification of such determination.

(iii) If, upon its review, the public agency determines that the school district notified pursuant to subparagraph (i) of this paragraph was not the pupil's district of [residence] [origin], the public agency shall send notification to the correct school district, in the form prescribed by subparagraph (i) of this paragraph. Alternatively, if, upon its review, the public agency determines that the school district originally designated pursuant to subparagraph (i) of this paragraph is the pupil's district of [residence] [origin], the public agency shall notify such district in writing of its final determination.

(iv) The board of education of the school district finally determined by the public agency to be the pupil's school district of [residence] [origin] may appeal such determination to the commissioner within thirty days of its receipt of final notification pursuant to this paragraph. Such an appeal shall be conducted in the same manner as an appeal from the actions of local school officials pursuant to section three hundred ten of this chapter, except that the factual allegations of the petitioner shall not be deemed true in the event the public agency elects not to appear in the appeal. The petitioner shall join as a party to the appeal any other school district suspected to be the pupil's actual school district of [residence] [origin].

(v) If the commissioner finds that the school district notified pursuant to subparagraph (i) or (iii) of this paragraph was not the pupil's school district of [residence] [origin] as defined in paragraph a of this subdivision and that the correct school district was not joined as a party to the appeal, the commissioner shall direct the public agency to notify the correct school district pursuant to subparagraph (i) of this paragraph.

(vi) Notwithstanding any inconsistent provisions of law, during the
pendency of all proceedings to review a denial of financial responsibility, the commissioner shall issue an interim order assigning such financial responsibility to the school district or, alternatively, upon a determination that the public agency failed to make reasonable efforts to identify the [residence] school district of origin of such child, to the public agency. In the event the public agency fails to provide timely notice pursuant to subparagraph (i) of this paragraph, or fails to render its final determination in a timely manner, the public agency responsible for such pupil's residential placement shall reimburse the commissioner for the payments made to the district furnishing instruction pursuant to this paragraph during the pendency of all proceedings or for the duration of the current school year, whichever is longer, and the state comptroller shall withhold such amount from any moneys due the county or the city of New York, on vouchers certified or approved by the commissioner, in the manner prescribed by law or shall transfer such amount from the account of such state department or agency upon certification of the commissioner, and such funds shall be credited to the general support for public schools local assistance account of the department.

(vii) Any final determination or order of the commissioner concerning the school district of [residence] origin of any pupil under this section may only be reviewed in a proceeding brought in the supreme court pursuant to article seventy-eight of the civil practice law and rules. In any such proceeding under such article seventy-eight, the court may grant any relief authorized by the provisions of section seventy-eight hundred six of such law and rules and may also, in its discretion, remand the proceedings to the commissioner. A local social services commissioner or any state department or agency placing pupils pursuant to this subdivision is a proper party in any such appeal or proceeding.

(viii) Upon completion of all proceedings to review the denial of financial responsibility for the costs of instruction pursuant to this paragraph, the commissioner shall refund any payments made by a party cleared of such responsibility and shall collect any payments owed by a party found to have such responsibility. Where such transactions involve a school district liable for reimbursement pursuant to paragraph e of this subdivision, the commissioner shall appropriately increase or decrease the moneys due a school district by such amount in accordance with the provisions of section thirty-six hundred nine-b of this chapter. Where such transactions involve the public agency making a placement pursuant to this subdivision, the comptroller shall increase or decrease the moneys due such public agency by such amount upon certification of the commissioner, transferring such amount to or from the account of such state department or agency to or from the general support for public schools local assistance account of the department.

g. If within ninety days from the entry of an order or judgment of a court of competent jurisdiction or the receipt of a decision of the commissioner pursuant to section three hundred ten of this chapter, determining the responsibility of a school district to pay tuition for a pupil in accordance with the provisions of paragraph a of this subdivision or of section five hundred four of the executive law, such school district has not made payment to the designated school district [providing instruction to such pupil] of attendance, the school district entitled to such payment may make application to the commissioner to receive
a sum in the amount of such tuition from the apportionment of public
money payable to the school district required to pay such tuition. The
application for payment shall be accompanied by a certified copy of the
order or judgment of a court, or a copy of the decision of the commis-
sioner, and by proof of service by first class mail of a copy of such
application upon the school district required to pay such tuition.
Unless the school district required to pay such tuition shall have noti-
fied the commissioner of such payment within thirty days from the
receipt of such application, the commissioner shall withhold an amount
equal to the tuition for such pupil from the public money payable to the
school district responsible for such tuition and shall pay such amount
to the school district which has provided instruction to such pupil. The
commissioner is authorized to promulgate regulations to implement the
provisions of this paragraph.
§ 3. Paragraph (a) of subdivision 2 of section 153-k of the social
services law, as amended by section 2 of subpart B of part K of chapter
56 of the laws of 2017, is amended to read as follows:
(a) Notwithstanding the provisions of this chapter or of any other law
to the contrary, eligible expenditures by a social services district for
foster care services shall be subject to reimbursement with state funds
only to the extent of annual appropriations to the state foster care
block grant. Such foster care services shall include expenditures for
the provision and administration of: care, maintenance, supervision
[and], tuition, and transportation costs related to the education of a
foster child or youth incurred in accordance with paragraph c of subdi-
vision four of section thirty-two hundred forty-four of the education
law; supervision of foster children placed in federally funded job corps
programs; and care, maintenance, supervision and tuition for adjudicated
juvenile delinquents and persons in need of supervision placed in resi-
dential programs operated by authorized agencies and in out-of-state
residential programs; except that, notwithstanding any other provision
of law to the contrary, reimbursement with state funds pursuant to the
state foster care block grant shall not be available for tuition expend-
ititures for foster children, including persons in need of supervision and
adjudicated juvenile delinquents, made by a social services district
located within a city having a population of one million or more. Social
services districts must develop and implement children and family
services delivery systems that are designed to reduce the need for and
the length of foster care placements and must document their efforts in
the multi-year consolidated services plan and the annual implementation
reports submitted pursuant to section thirty-four-a of this chapter.
§ 4. This act shall take effect immediately, provided however, that
the amendments to paragraph (a) of subdivision 2 of section 153-k of the
social services law as made by section three of this act shall be
subject to the repeal of such section pursuant to section 28 of part C
of chapter 83 of the laws of 2002, as amended.