

**Every Student Succeeds Act:
Ensuring Educational Stability
For Children Experiencing
DHS Child Welfare Foster Care in Oregon**

Technical Assistance Manual



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A: INTRODUCTION

Children and youth in foster care represent one of the most vulnerable student subgroups in this country. Of the approximately 415,000 children in foster care in 2014, nearly 270,000 were in elementary and secondary schools. Studies find that children in foster care are much more likely than their peers to struggle academically and fall behind in school. Students in foster care at age 17 are also less likely to graduate from high school; with only 65 percent graduating by age 21 compared to 86 percent among all youth ages 18 to 24.

National Center for Education Statistics (2014) link

Children in foster care experience much higher levels of residential and school instability than their peers; one study showed that 75 percent of children in foster care made an unscheduled school change in one school year, compared to less than 40 percent for children not in foster care. Unplanned school changes may be associated with delays in children's academic progress, leaving highly mobile students potentially more likely to fall behind their less mobile peers academically. Children experiencing this type of instability, including many students in foster care, are thus more likely to face a variety of academic difficulties.

“Foster care” means 24-hour substitute care for children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility. This includes placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes.

A child is in foster care regardless of whether the foster care facility is licensed and payments are made by the State, Tribal or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made. (45 C.F.R. § 1355.20(a)).

National Working Group on Foster Care and Education: National Factsheet on the Educational Outcomes of Children in Foster Care (2014) link

Oregon Department of Human Services (DHS) and Department of Education (ODE) acknowledge the need to interpret federal and state laws, policies, and procedures in a collaborative way, so that compliance across the state will be uniform and consistent, leading to better educational outcomes for children served by child welfare services.

This technical assistance manual will serve as a tool for Oregon Department of Education (ODE), Department of Human Services (DHS), Local Education Agencies (LEA), and Foster Care Points of Contact (FC/POC's) to have consistent guidance for application in the field.

B: FEDERAL REQUIREMENTS

- **Every Student Succeeds Act (ESSA)**

In December 2015, Congress passed Every Student Succeeds Act (ESSA), which reauthorized the Elementary and Secondary Education Act of 1965 (ESEA), and established new protections for children in foster care. These provisions, which took effect on December 10, 2016, and complement those in the Fostering Connections Act, requiring state education agency SEAs and LEAs to work with child welfare agencies to ensure the educational stability of children in foster care.

The foster care provisions of Title I, Part A (Title I) of the ESEA emphasize the importance of collaboration and joint decision-making between child welfare agencies and educational agencies. While these provisions do not create new requirements for child welfare agencies, they mirror and enhance similar provisions in the Fostering Connections Act. Considered together, these laws make clear that the educational stability of children in foster care is a joint responsibility of educational and child welfare agencies, and to successfully implement these provisions, these entities will need to collaborate continuously.

The new ESSA provisions relating to students in foster care include:

- **Allowing students in foster care to remain in the school district /school of origin even when the foster home placement changes.**
- **Requiring schools to immediately enroll students in foster care after a school move.**
- **Requiring foster care point of contact in every state education agency as well as each school district.**
- **Requiring plans for school district/school of origin transportation to maintain a foster student attendance in the school district/school of origin.**
- **Tracking achievement and graduation data for students in foster care**

Every Student Succeeds Act (ESSA) link

- **Fostering Connections: Joint Guidance for School Stability of Children in Foster Care**

Enacted in October 2008, the federal *Fostering Connections to Success and Increasing Adoptions Act of 2008* (P.L. 110-351, Fostering Connections Act) is a comprehensive law designed to promote permanent family connections and improve the lives of youth in the child welfare system. The Act emphasizes the importance of school stability as well as the need for collaboration between child welfare and education agencies. Among other important provisions, the Act requires child welfare agencies to provide:

- (i) assurances that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and*
- (ii)(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of placement; or*
- (iii) If remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.*

The federal Child and Family Services Improvement and Innovation Act (P.L. 112-34) in 2011 extended these requirements to each placement change. The US Department of Health and Human Services (HHS) issued guidance on the Fostering Connections Act in July 2010.

Fostering Connections: Joint Guidance for School Stability of Children in Foster Care link

- **Uninterrupted Scholars Act (USA)**

The Uninterrupted Scholars Act (USA) Public Law 112-278, was signed into law by President Barack Obama on January 14, 2013. The USA amends Section 444 of the General Education Provisions Act, more commonly known as the Family Educational Rights and Privacy Act (FERPA). These amendments to FERPA also affect the confidentiality provisions of the Individuals with Disabilities Education Act for children and youth birth through age 21.

The USA amends FERPA in two ways.

- First, the USA amends FERPA to permit educational agencies and institutions to disclose a student's educational records, without parental consent, to a caseworker or other representative of a State or local child welfare agency or tribal organization authorized to access a student's case plan "when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student." In the state of Oregon, we have defined this to mean all children in the custody of the Department of Human Services Child Welfare Office, including temporary, voluntary, and permanent custody.

- Second, the USA also allows educational agencies and institutions to disclose a student's education records pursuant to a judicial order without requiring additional notice to the parent by the educational agency or institution in specified types of judicial proceedings in which a parent is involved. These changes to FERPA, and, consequently, to the confidentiality provisions applicable to Parts B and C of the IDEA, help improve educational and developmental outcomes for children in foster care by providing those agencies that are legally responsible for such children access to specific information maintained by agencies that provide early intervention or educational services to such children.

The U.S. Department of Education Family Policy Compliance Office (FPCO) and the Office of Special Education and Rehabilitative Services (OSERS) issued guidance to States in the form of a question and answer document. This guidance contains information to support implementation of the changes made by the USA to FERPA.

In an effort to make Oregon's interpretation of USA easier for all parties, Oregon DHS and ODE issued a joint letter of agreement, which can be found at:

[Oregon DHS and ODE Issued a Joint Letter of Agreement link.](#)

[Uninterrupted Scholars Act \(USA\) link](#)

[Dear Chief State School Officers link](#)

- **Individuals with Disabilities Education Act (IDEA)**

The Individuals with Disabilities Education Act (IDEA) ensures services to children with disabilities throughout the nation. IDEA governs how states and public agencies provide early intervention, special education, and related services to more than 6.5 million eligible infants, toddlers, children and youth with disabilities. Infants and toddlers with disabilities (birth-2) and their families receive early intervention services under IDEA Part C. Children and youth (3-21) receive special education and related services under IDEA Part B. Part B mandates apply to eligible children from age 3 until they graduate high school with a standard/modified high school diploma or cease to be eligible for public education under state law.

In Oregon, students are eligible for special education services through the end of the school year in which they turn 21 years old or until they graduate with a standard or modified diploma. All of these students and their parents are also entitled to many procedural protections, including prior written notice from the local educational agency of any changes to the child's program and access to a hearing and appeal system when disputes arise.

The state educational agency is ultimately responsible to the federal government for the state's and local education agencies' compliance with IDEA. In general, state and local child welfare agencies do not have direct obligations under IDEA. However, school districts and the state education agency (ODE) do have direct obligation under IDEA. But sometimes the child welfare or other state agencies' help is needed for the state to comply with IDEA. For example, IDEA now requires that a child under age 3 for whom child abuse or neglect has been substantiated or who is identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure must be referred to the early intervention system (20 U.S.C. 1435(c)(2)(G)). Clearly, the state needs help from the child welfare system to comply with these requirements. Anyone who works with a child or young adult in foster care who has or who may have a disability- including school staff from child welfare and education agencies, parents, foster parents, Juvenile Court judges, children's and agency's attorneys- needs to understand how these two independent federal laws (Fostering Connections and IDEA) can help advocates ensure school stability and smooth transitions for this highly mobile population.

[Individuals with Disabilities Education Act \(IDEA\) link](#)

- **Section 504, Rehabilitation Act**

Students with disabilities who are eligible for services under IDEA are also protected by Section 504, a Federal law that prohibits discrimination on the basis of disability by recipients of Federal financial assistance, including public schools. School districts also must provide FAPE under Section 504 to students who have disabilities, regardless of whether they are eligible for services under IDEA. FAPE under Section 504 includes the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met, and that includes adherence to specific procedural requirements. An IEP developed and implemented in accordance with IDEA is one means of meeting the Section 504 FAPE standard. School districts often develop written plans, commonly referred to as Section 504 Plans, for students with disabilities who receive services under Section 504. Even if a student does not require special education services

and does not have an IEP, he or she may nevertheless be a student with a disability under Section 504 and be entitled to receive related aids and services under a Section 504 Plan.

The primary difference between an IEP and a 504 plan is the concept of specially designed instruction. To qualify for special education eligibility, the student must need specially designed instruction. IEPs contain goals that provide the frame work for specially designed instruction. However, 504 plans do not contain goals. Rather, a 504 plan defines the supports and accommodations that a student needs to access the student's educational program.

As is true under IDEA, Section 504 also requires that, to the maximum extent appropriate, students with disabilities be educated in the regular educational environment, unless they cannot be educated satisfactorily in that environment with the use of supplementary aids and services.

Office of Civil Rights link

Section 504, Rehabilitation Act of 1973

- **Family Education Rights and Privacy Act (FERPA)**

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):
 - School officials with legitimate educational interest;
 - Other schools to which a student is transferring;
 - Specified officials for audit or evaluation purposes;
 - Appropriate parties in connection with financial aid to a student;
 - Organizations conducting certain studies for or on behalf of the school;
 - Accrediting organizations;
 - To comply with a judicial order or lawfully issued subpoena;
 - Appropriate officials in cases of health and safety emergencies; and
 - State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

Family Education Rights and Privacy Act link

C: OREGON LAWS AND INTERPRETATIONS

The Oregon Revised Statutes (ORS) is the codified body of statutory law governing the state of Oregon, adopted by the state legislative assembly, and is subordinate to the Oregon Constitution. The Oregon Administrative Rules (OAR) are the rules by which state agencies and subunits, such as school districts and local welfare offices operate. OARs are strategies that agencies use to carry out the goals established by the ORS. This section contains references to both the ORS and the OAR, and highlights Oregon's statutes and rules that support the federal legislation described in the above sections. Although the references cited below are the exact wording of the ORS or OAR from which it came, it is important for the reader to look up the entire statute or rule to fully understand the context.

Department of Human Services Child Welfare Information

- **Responsibilities the Child Welfare Agency**

A child welfare agency administering plans under Title IV-E and IV-B of the Social Security Act is required to include a plan for ensuring the educational stability of a child in foster care in the child's case plan. This plan must include:

- An assurance that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child was enrolled at the time of placement; and
- An assurance that the child welfare agency has coordinated with the LEA(s) to ensure the child remains in that school, or if remaining in that school is not in the child's best interest, a Juvenile Court Judge has made a Best Interest Determination for the child to attend the school district where the foster home is located.

These assurances relate to the circumstances at the time of the child's initial placement into foster care, as well as each time a child moves to a different foster care placement.

- **Residency**

For students in DHS Child Welfare care and custody, the current school district/school of origin is the default school district/school of origin for children/students. It is only with a Best Interest Finding, made by the Juvenile Court, that foster students will transition from the school district /school of origin to the school district where the foster home is located. The exception is when the student's IEP team makes a school placement in a different school/school district, a Best Interest finding would not be necessary.

ORS 339.133 as revised during the 2017 Legislative Session:

ORS 339.133 Determination of residency of student for school purposes

(1)(a) "Foster care" means substitute care for children placed by the Department of Human Services or a tribal child welfare agency away from their parents and for whom the department or agency has placement and care responsibility, including placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and pre-adoptive homes.

(b)(A) "Person in parental relationship" means an adult who has physical custody of an individual or resides in the same household as the individual, interacts with the individual daily, provides the individual with food clothing, shelter and incidental necessities and provides the individual with necessary care, education and discipline.

(B) "Person in parental relationship" does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(c) "School district of origin" means the school district where an individual was a resident before:

(A) The individual was placed into foster care; or

(B) The foster care placement of the individual changed.

(d) "School of origin" means the school that an individual attended before:

(A) The individual was placed into foster care; or

(B) The foster care placement of the individual changed.

(4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall be considered a resident of:

(A) The school district of origin; or

(B) The school district where the individual resides due to placement by the Department of Human Services or a tribal child welfare agency if a Juvenile Court determines it is not in the best interest of the individual to continue attending the School of origin or any other school in the school district of origin, based on consideration of all factors relating to the individual's best interests.

(b) If a Juvenile Court makes a determination that it is not in the best interest of the individual to continue attending the School of origin, the individual shall be immediately enrolled in a new school, even if the individual is unable to produce records normally required for enrollment.

(c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A) of this subsection shall:

(A) Remain in the individual's school district of origin and, if applicable, the individual's school of origin for the duration of the individual's time in foster care; and

(B) Be provided, free of charge, transportation between the individual's home and the individual's school district of origin or, if applicable, the individual's school of origin.

(d) The Department of Education, the Department of Human Services, tribal child welfare agencies and school district shall collaborate to ensure that the provisions of this subsection are implemented.

- **Best Interest Finding Determinations**

****** Best Interest Findings are not necessary when the school/school district makes the school placement decision as a part of Special Education/IEP team process.**

Best Interest Findings are made by the Juvenile Court. The decision should always be guided by the best interest of the child in terms of school stability, the best opportunity for the child to make school progress, and the importance of maintaining stable relationships with adults, peers, and siblings. Child safety should always be most important consideration in the school placement decision. This decision should be an inclusive process with input from members of a child's team which inform educational progress.

- **Responsibility for School or Educational Setting Placement Decisions and Engaging Key Partners in Making Best Interest Determinations:**

The Juvenile Court will make the Best Interest Finding to determine whether to change the student's "school district of origin." The DHS caseworker, child or young adult's attorney, or CASA can request a Best Interest Finding from the Juvenile Court. It is the responsibility of the DHS caseworker to collect and obtain recommendations from the members of a child or young adult's team for review by the court.

Once the Juvenile Court makes a Best Interesting finding for a student not to attend their school district/school of origin, the student will be enrolled in the school district where the foster home is located. The school district where the student is enrolled will be responsible for implementing all components of a student's IEP. Given the specific needs of the student, the IEP placement team may determine the student requires a more restrictive setting that may or may not be within the context of the school districts. All special education placements are determined by the IEP team. This school/school district becomes the new school of origin, while the student is in foster care.

- **Engaging Key Partners for Input in Making Best Interest Determinations**

It is the responsibility of the caseworker to contact and consider recommendations from members of the child's team who informs education decisions. This includes, but is not limited to; the child or young adult, the child or young adult's parents, attorney, foster parents, CASA, surrogate parent, IEP team, Tribe, Developmental Disability caseworker, and others when applicable. It is preferable that the school or school district be given the opportunity to present their opinion and supporting information when making the Best Interest Determination.

If the school or school district wishes to give information to the Juvenile Court regarding a Best Interest Finding, this information should be documented in writing, and given to the caseworker. The caseworker will inform the court of the input from partners of the child or young adult's school placement preference in writing. This documentation may be in the form of a court report, case plan, or best interest checklist form provided by DHS.

- **Factors to Assess in Determining a Child's Best Interest for School Placement**

There are many factors which are considered when determining whether it is in the child or young adult's best interest to remain in their school of origin or move to the school where they physically reside. These factors will be individual to the child or young adult, and safety should always be the paramount consideration. Some factors of consideration beyond safety include:

- *The child or young adult's preference to remain in the school;*
- *Timing of the school year;*
- *Travel time or distance from foster home to school;*
- *The child or young adult has already experienced school disruptions;*
- *The child or young adult may return home soon;*
- *The child is a member of a Tribe, and the Tribe's recommendation;*
- *Siblings or other family members attend the same school;*
- *The child or young adult has significant relationships to friends, teachers, counselors, or other school staff;*
- *The IEP team's recommendation, when applicable;*
- *The child or young adult is receiving Developmental Disability services; input from the DD caseworker should be obtained;*
- *The child or young adult is involved in sports or other school activities of significance;*
- *The child or young adult is behind academically and a school move could delay further academic progress;*
- *The child or young adult would lose high school credits if moved to a new school*
- *Additional trauma of moving the child or young adult to another school;*

- *The child is placed in a foster home which will be the permanent placement;*
- *The child is in a specialized program which meets their needs academically and an equivalent program would not be available in the local school district;*
- *The child or young adult expresses an interest in attending the same school as other foster siblings in the foster home; and*
- *Natural transitions when the child or young adult is changing schools. The impetus for the school move is not based upon the preference or convenience of the foster parent, caseworker, or school staff.*

○ **Best Interest Dispute Resolution**

The members of a child or young adult’s team should make every effort to collaborate and come to a decision that meets the child’s safety and best interest. All parties of the Child Welfare case have the opportunity to give their input, and the Juvenile Court Judge/Referee make the final determination.

● **Notification of DHS Child Welfare Custody and School Documentation (form attached)**

Once the school/school district of origin or has been determined for the student, the caseworker must notify the school or educational setting that the child or young adult is in the legal custody of the Department. DHS may provide information about the reason the child or young adult is in foster care to the staff of the school district only when providing such information to a particular staff person is necessary for the child's or young adult's education planning or to ensure the safety of the child, young adult, or others in the school with whom the child or young adult has contact. This notification should include contact information for the caseworker or branch contact, should there be an emergency. This notification will be sent to the School District, Foster Care Point of Contact. It is the Foster Care Point of Contact’s job to communicate this notification with appropriate people at the student’s school.

This notification should be completed on DHS form letter and mailed, sent via secure email, or brought to the school by the foster parent at enrollment. The school district should be notified by DHS when a foster parent placement changes or the child or young adult is returning home to live with their parents. This notification can occur on an updated form, email, or other locally approved documentation.

All students in foster care are eligible for Free and Reduced Lunch under state and federal regulations. Foster parents should enroll the child or young adult into this program, regardless of whether or not they intend to use it, as it may make the child or young adult eligible for other school fee discounts and exemptions. The foster parents do not need to report their income for a student in foster care to be eligible for Free and Reduced Lunch.

When a child or young adult is enrolled in a school, it is very important for the Child Welfare caseworker to record the school information in the Person Management section in OR-Kids. This school placement information needs to be updated with each school change. School placement information in the Person Management section of OR-Kids is critical for DHS and ODE to be able to pull the aggregate data for two specific reasons:

- In case of a school-wide emergency, DHS needs to be able to pull a list of all the children attending a specific school to ensure safety and possible notification to foster parents of an emergency.
- ODE relies on OR-Kids data for federal school funding of children in foster care, who are considered a special population, for which the specific school receive additional weights for funding.

● **Determination of the Foster Care Placement**

DHS has a number of considerations to determine where a child is placed in foster care. DHS first has a legal obligation to safely place children with relatives in the order of preference outlined in ORS 419B.192. When a child or young adult cannot be placed with a relative, DHS will assess whether anyone with a significant relationship to the child or young adult is willing to be certified as a foster parent. When neither of these options is viable, DHS will look to match the child with a certified foster family. Placement matching will involve a number of factors of consideration including the child’s special needs and the family’s special skills. For these reasons, children being placed in foster care are not always able to be placed in the same school district they lived in prior to coming into foster care.

● **Student Data and Privacy**

All communication between DHS and Schools needs to be done in a secure manner, when child specific information is being shared. When DHS is communicating with schools via email, this should be done using the secure email method (#Secure# in the subject line). When schools are communicating with DHS via email, it should be done using the school district secure method.

Uninterrupted Scholars Act (USA): USA amends FERPA to permit educational agencies and institutions to disclose a student’s educational records, without parental consent, to a caseworker or other representative of a State or local child welfare agency or tribal organization authorized to access a student’s case plan “when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student.” In the state of

Oregon, we have defined this to mean all children in the custody of the Department of Human Services Child Welfare Office, including temporary, voluntary, and permanent custody.

Health and Safety Emergency (OAR 581-021-0380): When DHS is conducting a CPS investigation, and does not have legal custody of a student, DHS can access records through the Health and Safety Emergency rules. This clause allows the release of records without the school obtaining authority from the legal parent.

581-021-0380

Conditions for the Disclosure of Information in Health and Safety Emergencies

(1) An educational agency or institution shall disclose personally identifiable information from an education record to law enforcement, child protective services, and health care professionals, and other appropriate parties in connection with a health and safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals.

(2) Nothing in this Act or this part shall prevent an educational agency or institution from:

(a) Including in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community;

(b) Disclosing appropriate information maintained under paragraph (2)(a) of this section to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of the student.

(3) Paragraphs (1) and (2) of this section will be strictly construed.

(4) As used in this rule, a "health or safety emergency" includes, but is not limited to, law enforcement efforts to locate a child who may be a victim of kidnap, abduction, or custodial interference and law enforcement or child protective services efforts to respond to a report of child abuse or neglect pursuant to ORS 418.750 to 418.760.

(3) Sections (1) and (4) of this rule shall be strictly construed.

○ **Disclosure of Information by DHS to the School**

DHS, Child Welfare, always needs to notify the school when a student enters or exits the care or custody of the Department. The caseworker also needs to inform the school of:

- Caseworker name and contact information
- Foster Parent name and contact information
- Safety related information (i.e. if certain people are not allowed to pick up a student from school)
- Name of previous school for records transfer

○ **Child Welfare caseworkers are limited in what information they can disclose to a school/school district about a student in foster care. Oregon Administrative Rule 413-010-0055, Mandatory Disclosure if in the Child's Best Interest states:**

(1) Unless client information is exempt from disclosure under another provision of law, and if disclosure is in the child's best interest, the Department will disclose client information records to the following persons:

*(c) Treatment providers, foster parents, adoptive parents, **school officials** or other persons providing services to the child or family to the extent that such disclosure is necessary to provide services to the child or family. Such services include, but are not limited to, those provided by foster parents, child care centers, private child caring agencies, treatment centers, Indian social service or child welfare agencies, physicians and other health care providers, mental health professionals, volunteers, student interns, and child protection teams.*

This means, the DHS caseworker is only allowed to share case specific information as it relates to the student's education needs. There might be times when a caseworker shares a redacted document, such as a psychological evaluation, where some of the information is related to the student's education needs, while other information is not necessary for school personnel.

○ **Disclosure of Information by School to CASA or Court Appointed Attorney**

Court Appointed Special Advocates (CASA) are appointed to represent some children in foster care. When there is a CASA assigned to a child welfare case, **ORS 419.112** allows a CASA to obtain school records:

Upon presentation of the order of appointment by the court appointed special advocate, any agency, hospital, school organization, division, office or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the court appointed special advocate to inspect and copy, and may consult with the court appointed special advocate regarding, any records relating to the child or ward involved in the case, without the consent of the child, ward or parents. Schools and School Districts can ask to see the order of appointment by the court, for verification before sharing school records.

- **Disclosure of Information by School to Child's Attorney**

When a DHS Child Welfare Foster Child has an attorney, ORS 419B.195(2) and ORS 419(c)(200)(3) allows a CASA to obtain school records:

ORS 419B.19(2)

(2) Upon presentation of the order of appointment under this section by the attorney for the child or ward, any agency, hospital, school organization, division or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the attorney to inspect and copy any records of the child or ward involved in the case, without the consent of the child or ward or parents. This subsection does not apply to records of a police agency relating to an ongoing investigation prior to charging.

ORS419c.200(3)

(3) Upon presentation of the order of appointment under this section by the counsel for the youth, any agency, hospital, school organization, division or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the counsel to inspect and copy any records of the youth or youths involved in the case, without the consent of the youth or youths or parents. This subsection does not apply to records of a police agency relating to an ongoing investigation prior to charging.

- **School District/School of Origin**

The school district/school of origin is the school in which a child is enrolled at the time of placement into foster care. LEAs must ensure that a child in foster care remains in the school district/school of origin unless the Juvenile Court makes a Best Interest Finding to have the student attend the school/school district in which they are living. There are a couple of exceptions to this process:

- When a student is in foster care prior to being school-aged, and becomes school-aged, the School of Origin would be the school/school district in which they are living in foster care.
- When a student enters foster care and has not been attending school for a significant period of time and is not enrolled in school, the School of Origin can be the school/school district in which they are living in foster care.
- When a student is placed in foster care from out of state, the Oregon laws apply once they are living in Oregon, meaning the School of Origin will be the school/school district in which they are living in foster care.

ORS 339.133 Determination of residency of student for school purposes

(1)(c) "School district of origin" means the school district where an individual was a resident before:

(A) The individual was placed into foster care; or

(B) The foster care placement of the individual changed.

(d) "School of origin" means the school that an individual attended before:

(A) The individual was placed into foster care; or

(B) The foster care placement of the individual changed.

(4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall be considered a resident of:

(A) The school district of origin; or

(B) The school district where the individual resides due to placement by the Department of Human Services or a tribal child welfare agency if a Juvenile Court determines it is not in the best interest of the individual to continue attending the school district of origin or any other school in the school district of origin, based on consideration of all factors relating to the individual's best interests.

(b) If a Juvenile Court makes a determination that it is not in the best interest of the individual to continue attending the school district of origin, the individual shall be immediately enrolled in a new school, even if the individual is unable to produce records normally required for enrollment.

(c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A) of this subsection shall:

(A) Remain in the individual's school district of origin and, if applicable, the individual's school of origin for the duration of the individual's time in foster care; and

(B) Be provided, free of charge, transportation between the individual's home and the individual's school district of origin or, if applicable, the individual's school of origin.

(d) The Department of Education, the Department of Human Services, tribal child welfare agencies and school districts shall collaborate to ensure that the provisions of this subsection are implemented.

- **DHS Child Welfare Caseworker**

Roles of the DHS Child Welfare Caseworker may include:

- Serving as one of the primary contacts between children in foster care and school staff, district personnel, and other

service providers;

- Establishing a process to notify the educational agency when a child has been placed in foster care in the LEA or when there has been a foster care placement change;
- May provide records known to DHS including immunizations, medical records, and copies of IEPs and Section 504 Plans;
- Working with LEAs to ensure that children in foster care are immediately enrolled in school, and to coordinate transportation services;
- Referring students in foster care for special education assessments and participating in IEP/504 plan meetings;
- Coordinating services so that children in foster care can access early educational services for which they are eligible, including Head Start and Early Head Start, home visiting, and preschool programs administered by LEA, and screening and referrals to health, mental health, dental, and other appropriate services; and
- Informing parents or education decision makers of children in foster care of the child's education rights and providing public notice of the educational rights of children in foster care to community stakeholders.

- **DHS and Departments**

For the purposes of federal and state laws, it is important to understand which DHS agency a family or student is working with, in order to understand which laws apply. Different Departments within DHS have different laws regarding confidentiality, record sharing, consents, foster care, etc. The Department of Human Services (DHS) includes five different agencies:

- Child Welfare Programs
- Developmental Disabilities Services
- Self Sufficiency Programs
- Vocational Rehabilitation
- Aging and People with Disabilities

There are also various agencies and DHS Departments which offer foster care services. Federal law, the *Every Student Succeeds Act (ESSA)* only applies to Child Welfare and tribal foster care. Each of these agencies operates foster care under different statutes, rules, and procedures. The following operate foster care programs:

- DHS Child Welfare Programs
- DHS Developmental Disabilities Services
- DHS Aging and People with Disabilities
- Tribal Foster Care
- Oregon Youth Authority
- Mental Health

It is important to understand which agency is working with a student, as well as which agency is providing foster care services, to know which education laws apply. Some students may qualify for more than one type of foster care. Additionally, some foster care placements, may take students from various agencies. Some examples of why this matters:

- ESSA only applies to students in Tribal or Child Welfare Foster Care.
- A student in Child Welfare custody could be in Child Welfare Foster Care or a Developmental Disabilities foster care placement.
- Some residential treatment foster care programs take students from Child Welfare and Oregon Youth Authority, which operate under different rules.
- In certain circumstances, a student could be receiving services from multiple agencies at one time.

- **The Role of the Various Members of the Child's Team**

- **Child Welfare Caseworker**

This is the primary person responsible for the student's case. Over time, this caseworker may change as the case moves through the system. Each Child Welfare branch is set up a little differently. You might hear workers called CPS workers, permanency workers, ongoing workers, adoption workers, and teen workers. Each type of caseworker essentially has the same function, with differing areas of expertise.

- **Tribal Caseworker**

When a child or young adult in foster care is eligible for enrollment in a Tribe, the Tribe will decide whether or not to assign a caseworker to the case. Some Tribes have their own foster care and juvenile court programs, and will take jurisdiction over the Child Welfare case. When a Tribe has jurisdiction, they operate as their own legal entity.

- **Court Appointed Special Advocate (CASA)**

These are community member volunteers, appointed by the Juvenile Court, to advocate on behalf of the child or youth in foster care. Some counties appoint CASA's more often than other counties, so not every case will have

one assigned. There is statute that allows CASA's to access a student's education records, and the CASA should be working with the caseworker and other members of the child or youth's team.

- **Child's Attorney**

Many children in foster care, receive a court appointed attorney to represent them in Juvenile Court. This attorney is an important member of a child's team, and often advocates for the child or young adult's education needs.

- **Foster Parent**

If a person certified through the department of human services, to care for children and young adults in foster care. Foster parents are allowed to make regular caregiving decisions. If there is no surrogate parent assigned, the foster parent will act as the parent for education decisions, while the student remains in foster care.

- **Surrogate Parent**

When a child or young adult in foster care is assigned a surrogate parent; this is the person who will be making the legal education decisions for the student. The surrogate parent can be assigned by the Juvenile Court or the school district, and will work with the student's caseworker on education planning.

- **DD Caseworker-**

Some children and young adults in child welfare foster care, also qualify for developmental disabilities services, which can include foster care. These students will also have a developmental disabilities caseworker, who will work in tandem with the child welfare caseworker.

- **ILP Caseworker-**

Many older youth in foster care are involved in the Independent Living program. DHS contracts with providers to assist youth learn independent living skills in order to learn how to transition into adulthood.

- **Oregon School Board Sample Policy: Abuse of a Child Investigation Conducted on District Premises JHFE-AR(2) (form attached)**

- The Department of Human Services or a law enforcement agency has the authority to conduct an investigation of a report of child abuse on school premises according to Oregon Revised Statute (ORS) 419B.045. The school administrator must be notified that the investigation is to take place, unless the administrator is a subject of the investigation. The investigator is not required to reveal information about the investigation to the school as a condition of conducting the investigation. Please note that a new process has been developed by DHS and Law Enforcement Agencies, and District Attorneys.

Oregon Department of Education Information

- **LEA Responsibilities**

An LEA must collaborate with State and tribal child welfare agencies to implement the Title I educational stability provisions. LEAs should work closely with child welfare agency counterparts to tailor processes and procedures to the unique local context.

- **Determination of Education Decision Maker**

If no parent can be identified or located after reasonable efforts, or if the student is an unaccompanied homeless youth, the district must appoint a surrogate parent for special education decisions. A surrogate parent may not be appointed solely because the parent or adult student is uncooperative or unresponsive. The process for determining and assigning surrogate parents is determined by the school district, and may vary regionally across Oregon. The appointed surrogate must not be an employee of the school district, ODE, DHS, or any other agency that is involved in the education or care of the child. This person should be free from all personal or professional interest that conflict with representing the child's special education interests. The surrogate parent must have knowledge and skills that ensure adequate representation of the child in special education decisions. An appointed surrogate parent has all of the special education rights and procedural safeguards available to the parent.

OAR 581-015-2000 Definitions

(22) "Parent" means:

(a) One or more of the following persons:

(A) A biological or adoptive parent of the child;

(B) A foster parent of the child;

(C) A legal guardian, other than a state agency;

(D) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(E) A surrogate parent who has been appointed in accordance with OAR 581-015-2320, for school-age children, or 581-015-2760 for preschool children.

(b) Except as provided in subsection (c), if more than one person is qualified to act as parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive parent is presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child. If a judicial decree or order identifies a specific person to act as the parent of a child or to make educational decisions on behalf of a child, then that person will be the parent for special education purposes.

(c) If judicial decree or order identifies a specific person under subsection (a) to act as the parent of a child or to make educational decisions on behalf of a child, then that person will be the parent for special education purposes.

Generally, when a student is in foster care, the foster parent is the one who will fill the “parent” role for education decision making, unless a surrogate parent has been assigned.

At the age of 18, the young adult can choose to make decisions regarding educational services and school placement when educational rights have been passed to the young adult.

When a student is placed in a residential treatment foster care placement and is in the care and custody of Child Welfare, a surrogate parent must be assigned by the Juvenile Court or the School District.

581-015-2320 Surrogate Parents link

- **Student Information**

When a child is placed into DHS Child Welfare custody, the parent’s access to the child’s electronic school information needs to be removed. Foster Parents should have full access to all school information about the child. In addition Foster Parents should receive any e-mails or mail sent from the school district to parents. Foster Parents should be encouraged to participate in all school activities.

DHS Case Workers will determine what type of school information can be shared with the DHS Child Welfare Foster child’s parents as well as the nature of the parent’s participation in school activities.

- **School District/School of Origin Transportation (form attached)**

Some foster students in the care and custody of DHS Child Welfare will need transportation to remain in their school district/school of origin. To facilitate transportation for these students, an LEA must collaborate with ODE to ensure that transportation for children in foster care is provided, arranged, and funded. An LEA must develop and implement clear written procedures governing how transportation will be provided to maintain DHS foster care students in the school district/school of origin. Some school districts may want to reflect their school district/school of origin transportation policy within their school board policies.

These procedures must ensure that:

- Children in foster care needing transportation to their school district/school of origin will promptly receive the transportation in a cost effective manner.
- Even if an LEA does not provide transportation to other students, it must still ensure that school district/school of origin transportation is provided for students in child welfare foster care. For example, if a foster home is within walking distance of the foster child’s school/district of origin transportation should be provided.
- Since the students may be placed in foster care placements across school district or county lines, in developing transportation procedures, LEAs may want to work with local school districts to establish clear written procedures.
- LEAs must provide foster students with transportation to the school district/school of origin for the duration of the student’s time in foster care, consistent with the educational stability requirements under the Fostering Connections Act. While these requirements no longer apply once a student has exited foster care, the department encourages LEAs to prioritize educational stability for these students. In addition to benefitting academically from school continuity, during times of transition out of foster care, it is important for youth to be able to maintain connections with their peers, teachers, and other supportive adults at school. LEAs should consider adopting policies that allow a student who exited foster care during the school year to continue to attend in the school district/school of origin through at least the end of the academic school year.
- Charter schools, all of which are public schools in Oregon are included in this requirement if they are the school district/school of origin.

- **School District/School of Origin Transportation Cost Reimbursement**

Transportation costs related to providing transportation for qualifying students are eligible for reimbursement from the State School Fund Transportation Grant per the rates (70%, 80%, 90%) for the school district origin. The remaining

costs not reimbursed from the State School Fund Transportation Grant (10%, 20%, 30%) are also eligible for reimbursement. Invoices for the remaining balance should be submitted to the Department of Education per the department's approved invoice system, where federal matching funds from the Department of Human Services are to be used to pay the remaining balances. Reimbursements will not exceed 100% of the total of approved costs. Failure to use the Department of Education's invoice system and/or supply required information may result in denial of claim(s).

ODE and DHS will work collaboratively to develop a secure referral and invoicing process that ensures the protection of personal protected information.

OAR 581-023-0040

- **Foster Student School of Origin Transportation Reimbursement Process (form attached)**

ODE is requesting that school districts submit an invoice for Quarter 1 (**July 1, 2018 – September 30, 2018**) by November 15, 2018, followed by submission of the 2nd Quarter (**October 1, 2018 – December 31, 2018**) invoice by February 14, 2019, Quarter 3 (**January 1, 2019 – March 30, 2019**) invoice will be due May 14, 2019 and Quarter 4 (**April 1, 2019 – June 30, 2019**) due by August 14, 2015. The invoice document link will be made available on the ODE website. [Foster Student School of Origin Transportation Reimbursement Form.](#)

Please note that there are **three tabs** on this form: **Data, Form Instructions and Notes**. Please utilize the notes page to include any information you feel might be helpful when analyzing and approving request for reimbursement. If the school district of origin has collaborated with the resident district, and in agreement, are sharing responsibility of transporting student, the district completing report should claim only their portion of transport for said student.

This needs to be documented on the Notes page so that we can review and adjust the report accordingly. The Grant Administrator will change the School of Origin to read the Resident School District and the resident School District to be the claiming district of origin.

The information that districts will be required to provide on the quarterly invoice is as follows:

- School District of Residence (Foster Student Resident Home)
- Student Name
- SSID #
- DHS Person ID #
- Service Start Date (of foster care transportation)
- Service End Date (of foster care transportation)
- Foster Care Home Residence Address
- Type of Transportation Scheduled
- Average miles transported (one-way)
- Number of School Days Transportation Scheduled
- Total cost of transportation (per day)

Upon receipt, ODE will analyze the data provided and approve reimbursement invoices. ODE will set up awards through the Electronic Grant Management System (EGMS) for districts to claim funds. Claims will be approved once ODE secures funding from DHS, which will occur after ODE submits to DHS the documentation provided to ODE from districts.

In order to protect Personal Protected Information, ODE will require that the invoice for reimbursement be submitted electronically through Secure File Transfer Protocol. The Secure File Transfer link is located on the invoice template as well as a link to the instructions. Within the file transfer link, one will choose FosterCare@ode.state.or.us as the Recipient. The link is also available on the [ODE district website](#).

- **Immediate Enrollment**

When a student in foster care changes schools, LEAs must ensure that a student in foster care is immediately enrolled in the new school district even if the student does not have the required documentation. The enrolling school must then contact the student's prior school district for relevant records. LEAs should review and revise policies and practices to remove any barriers to immediate enrollment for students in foster care.

Immediate enrollment means that a student in foster care be enrolled on the day the foster parent initiates enrollment for the foster student in the new school district. Prompt attendance in a new school is important to prevent educational discontinuity. In addition, enrollment must not be denied or delayed for any population of students (e.g., justice-involved youth in foster care, students with disabilities receiving special education and related services, or English Language Learners receiving language services) because documents normally required for enrollment have not been provided.

In addition to ensuring immediate enrollment, LEAs should also ensure that students in foster care are regularly attending and fully participating in school and that their educational needs are being met. An inter-district transfer agreement OAR 581-021-0019 is not required for a foster care student school district/school of origin enrollment.

ORS 339.133 Determination of residency of student for school purposes

4(b) if a Juvenile Court makes a determination that it is not in the best interest of the individual to continue attending the school district of origin, the individual shall be immediately enrolled in a new school, even if the individual is unable to produce records normally required for enrollment.

OAR 581-021-0019

- **Transfer of Student Education Records**

Students in foster care who change schools frequently may not have the documentation required to enroll in a new school district/school. In addition, failure of schools to promptly transfer records to the new school district/ school can lead to further delays in enrollment. These delays can negatively impact attendance and lead to other adverse consequences, such as being incorrectly enrolled in classes and not receiving the necessary academic services.

Typically, schools are given a total of 20 days to transfer records for students changing schools- 10 days for the new school to make the request, and 10 days for the former school to transfer the student records. However, for students in foster care, OAR 581-021-0255 cuts this timeline in half. A new school district/school should request student records within **five days** of the student seeking enrollment, and the former school has **five days** to send the records once the request is received. If the new school is not informed the student is in the custody of DHS, they will not know this rule applies to the situation, which may cause an unnecessary delay in records transfer. Families and students are encouraged to bring as much information as possible to the new school when seeking initial enrollment, including current and past report cards, transcripts, IEPs, 504 Plans, and other documents that may help the new school develop an appropriate educational plan.

OAR 581-021-0255

- **LEA Foster Care Point of Contact**

LEAs must designate a foster care point of contact (FC/POC). Roles of the FC/POC may include:

- Coordinating with the corresponding DHS Child Welfare Case Worker on the implementation of foster care provisions;
- Facilitating the transfer of records and immediate enrollment;
- Facilitating data sharing with DHS Child Welfare, consistent with FERPA and other privacy protocols;
- Developing and coordinating school district/school of origin transportation procedures; and,
- Ensuring that students in foster care are enrolled in and regularly attending school.

A district's McKinney-Vento liaison may also serve as the FC/POC. However, no funds from McKinney-Vento or Title IA. Homeless set-aside may be used for the FC/POC position. Further, it is essential that the designated FC/POCs have sufficient capacity and necessary resources to fulfill their duties, considering the roles and responsibilities of the FC/POC to facilitate the implementation of foster care provisions.

- **State Foster Care Point of Contact**

Responsibilities include:

- Monitoring LEAs and coordinating with the State CWA to issue state guidelines;
- Establishing uniform guidelines for transportation procedures;
- Facilitating data sharing with State and tribal CWAs; and
- Provide professional development opportunities for FC/POCs.

An SEA must collaborate with the State agency responsible for administering State plans under parts B and E of Title IV of the Social Security Act to ensure the educational stability of children in foster care. Thus, in coordination with State and tribal child welfare agencies, an SEA must ensure that its LEAs implement the Title I educational stability requirements for children in DHS foster care, including ensuring that:

- A child in foster care remains in his or her school of origin, unless it is determined that remaining in the school of origin is not in the child's best interest;
- If 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
- That the new (enrolling) school immediately contacts the school of origin to obtain relevant academic and other records.

In fulfilling this role, the SEA should coordinate with the State or tribal child welfare agency to develop and disseminate uniform guidelines for implementing the Title I educational stability provisions. Developing uniform statewide policies and procedures for ensuring educational stability for children in foster care will facilitate successful implementation at the local level. This is particularly important given the shared agency responsibility for educational stability under Title I and the Fostering Connections Act, and because a single LEA or local child welfare agency will likely have to collaborate with multiple partner agencies in implementing these provisions. Due to the high mobility of children in foster care, State guidance is crucial for consistency across school districts.

Additionally, the SEA must conduct regular monitoring and oversight to guarantee appropriate implementation of these provisions at the local level.

- **McKinney-Vento Homeless Education Act**

A student who meets the definition of a homeless individual under the McKinney-Vento Homeless Education Act must be referred to the local school district homeless liaison, to determine eligibility for services through the Act.

Section 725(2) of the McKinney-Vento Act defines “homeless children and youths” as individuals who lack a fixed, regular, and adequate nighttime residence. The term includes:

- Sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (sometimes referred to as “doubled-up”);
- Living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;
- Living in emergency or transitional shelters;
- Abandoned in hospitals;
- Children and youth who have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;
- Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and,
- Migratory children who qualify as homeless because they are living in circumstances described above.

Prior to 2015, the McKinney-Vento Homeless Education Act included awaiting foster care placement as a part of the definition of homeless. Every Student Succeeds Act removed “awaiting foster care placement” and creates similar, but separate, protections for students in foster care under ESSA Title IA.

There may be occasional circumstances where a student in DHS Child Welfare care and custody also qualifies for McKinney-Vento. Examples:

- Student is designated as McKinney-Vento for school year, and then enters foster care. The McKinney-Vento status is retained for the remainder of the academic year.
- Student is in care and custody of DHS, Child Welfare, but on runaway status.
- Student is in DHS, Child Welfare custody and living in a homeless shelter.

ORS 339.115 Admission of students; waiver; denial

(7) Notwithstanding ORS 339.133 (1)(a), a school district shall not exclude from admission a child located in the district solely because the child does not have a fixed place of residence or solely because the child is not under the supervision of a parent, guardian or person in a parental relationship.

OAR 461-001-0000(33) Definitions

(33) "Homeless" in the Employee Related Day Care (ERDC) program means lacking a fixed regular and adequate nighttime residence and includes living in an emergency shelter, shared housing with others due to loss of housing or economic hardship, staying in motels, cars, parks, public places, tents, trailers, or other similar settings.

ODE McKinney-Vento Act website link

Education for Homeless Children and Youth Programs Non-Regulatory Guidance link

If there are questions as to whether a student meets both protections, feel free to call the ODE Homeless Coordinator, ODE Foster Care Point of Contact, or the DHS Child Welfare Education Coordinator to discuss the case specific situation.

- **Early Intervention**

The Early Intervention and Child Abuse & Prevention Act (CAPTA) and IDEA work in tandem to require states to develop procedures for referring children under the age of 3 to early intervention, when there has been a founded child abuse disposition. In Oregon, this referral process is outlined in OAR 413-015-0440.

When a disposition is founded for child abuse or neglect, the DHS Child Welfare case worker must refer all victims three years old and under to Early Intervention. In completing the referral, the DHS Child Welfare caseworker must use the "CPS to Early Intervention Referral Form" (DHS 323) when a release of information is not signed.

OAR 413-015-0440 Determine Disposition of the CPS Assessment

(1) *After gathering all the information necessary to complete the CPS assessment, the CPS worker must determine the disposition.*

(2) *Requirement to Determine Disposition of the CPS Assessment. The CPS worker must determine if there is reasonable cause to believe that child abuse or neglect occurred and explain the basis for that determination.*

(a) *The requirements for determining dispositions on a report of abuse or neglect as defined in ORS 419B.005 are described in OAR 413-015-1000, "The CPS Assessment Dispositions".*

(b) *The requirements for determining dispositions on a report of abuse or neglect involving a child-caring agency or proctor foster home as defined in Oregon Laws 2016, chapter 106, section 36 are described in OAR 413-015-0620 to 413-015-0640.*

(3) *When a disposition is founded for child abuse or neglect, the CPS worker must refer all victims three years old and under to Early Intervention. In completing the referral, the CPS worker must use the "CPS to Early Intervention Referral Form" (DHS 323) when a release of information is not signed.*

(4) *Documentation. The CPS worker must document that determination and explain the basis for the determination in the disposition narrative section of the Department's electronic information system prior to completing the CPS assessment.*

OAR 581-015-2700 Definition EI/ECSE Program

(9) *"Early intervention (EI)" means services for preschool children with disabilities from birth until three years of age, including Indian children and children who are homeless and their families, these services are:*

(a) *Based on scientifically-based research, as defined in OAR 581-015-2000, to the extent practicable;*

(b) *Designed to meet the child's developmental needs and the needs of the family related to enhancing the child's development as identified by the IFSP team, in any one or more of the following areas: physical development cognitive development; communication development; social or emotional development; or adaptive development;*

(c) *Selected in collaboration with the parents;*

(d) *Provided:*

(A) *Under public supervision;*

(B) *By personnel qualified in accordance with criteria established by rules of the State Board of Education; and*

(C) *In conformity with an individualized family service plan;*

(e) *At no cost to parents;*

(f) *Meet all applicable state requirements; and*

(g) *Include the following types of intervention services (defined in 303.13(1): family training, counseling, in-home visits; special instruction; speech-language pathology and audiology services, and sign language and cued language services; occupational therapy; physical therapy; psychological services; service coordination; medical services only for diagnostic or evaluation purposes; early identification, screening, and assessment services; health services necessary to enable the child to benefit from other early intervention services; nursing services, nutrition services, social work services; vision services; assistive technology devices and services; and transportation and related costs that are necessary to enable a child and the child's family to receive another early intervention service.*

- **Prekindergarten/Preschool**

An LEA must meet the ESSA requirements for preschool students in foster care if the school district of origin offers public preschool education this includes ensuring that a child in foster care remains in his or her preschool program of origin.

OAR 581-019-0005 Definitions

(11) *"Prekindergarten" means those programs which provide comprehensive health, education, and social services in order to maximize the potential of three- and four-year-old children. The "State Prekindergarten Programs" means the statewide administrative activities carried out within the Department of Education to allocate, award, and monitor state funds appropriated to create or assist local prekindergarten programs.*

- **Special Education**

Under IDEA, each child's special education placement decision must be made by a team of knowledgeable persons, including the foster child's parents; this team may also include staff from a child welfare agency. It is important to note that the Juvenile Court does not make special education placement decisions.

While IDEA presumes that the first placement option considered for each student with a disability is the regular classroom with appropriate supplementary aids and services, there is no one size fits all approach. School districts must make available a range of placement options to meet the needs of students with disabilities for special education and related services, including regular classes, special classes, separate schools, home instruction, and instruction in hospitals and institutions.

IDEA requires that the educational placement of each eligible student with a disability, including students with disabilities in foster care, be determined at least annually, and be based on the student's IEP in accordance with the child's individual needs, and in the least restrictive environment (LRE)

It is important that students in foster care receive timely and expedited evaluations and eligibility determinations, as is the case for any student. In addition, foster students must have access to comparable services, including extended school year services

If a student is currently eligible for special education and an IEP has been developed, then the student's current school district/school of origin continues to provide the services as written in the IEP. When a student is placed into DHS Child Welfare custody, by default the student would continue to attend the school district/school of origin which would be the school the student is currently attending and the location of the student's current special education services.

When a Best Interest Finding is made by the Juvenile Court, the Best Interest Finding will result in the student attending the school district where the foster home is located. In this case, it will be the school district's (resident school district) where the foster home is located responsibility to enroll the student and provide the services as outlined in the student's IEP.

Dear Colleague Letter: Highly Mobile Students dated 7-19-13 link

- **English Language Learner**

Some students in foster care are also English learners (ELs)—students identified as needing additional support with their English proficiency in speaking, listening, reading, or writing English through EL identification procedures required by ESSA and OAR. Title VI (Civil Rights) and the Equal Educational Opportunities Act of 1974 (EEOA) require public schools to ensure that all EL students, including EL students in foster care, can participate meaningfully and equally in educational programs. In order to meet their obligations under Title VI and the EEOA, LEAs must:

- Identify and assess all potential EL students in a timely, valid, and reliable manner;
- Provide EL students with a language assistance program that is educationally sound and proven successful;
- Sufficiently staff and support the language assistance programs for EL students;
- Ensure that EL students have equal opportunities to meaningfully participate in all curricular and extracurricular activities;
- Avoid unnecessary segregation of EL students;
- Ensure that EL students with disabilities are evaluated in a timely and appropriate manner for special education and disability-related services and that their language needs are considered in these evaluations and delivery of services;
- Meet the needs of EL students who opt out of language assistance programs;
- Monitor and evaluate EL students in language assistance programs to ensure their progress with respect to acquiring English proficiency and grade level core content, exit EL students from language assistance programs when they are proficient in English, and monitor exited students to ensure they were not prematurely exited and that any academic deficits incurred in the language assistance program have been remedied;
- Evaluate the effectiveness of a school district's language assistance program(s) to ensure that EL students in each program acquire English proficiency and that each program was reasonably calculated to allow EL students to attain parity of participation in the standard instructional program within a reasonable period of time; and
- Ensure meaningful communication with limited English proficient (LEP) parents.

Title III English Learners- Guidance and Research link

Dear Colleague Letter: English Learner and Limited English Proficient Parents link

- **High School Diploma Standards**

ORS 329.451 has been amended by the State Legislature in 2017 in such a way to allow students who have been in foster care, at some point during grades 9 to 12, to earn a high school diploma by meeting the high school diploma standards established by the State Legislature. In order to do this, the local school district must grant a waiver of diploma requirements established by the LEA Board of Education. In this situation, the definition of foster care students would

include those students in DHS Child Welfare custody as well as those foster students placed in a Developmental Disability foster home. These changes took place on January 1, 2018.

At this point, it has not been determined what type of documentation will be needed to recognize the foster care designation during grades 9 to 12. These are the current high school diploma standards.

ORS 329.451 High school diploma; modified diploma; extended diploma; alternative certificate; grade level advancement link

This is the new information included in ORS 329.451 in July of 2017:

(c)(A) A school district or public charter school that requires students to satisfy any requirements not specified by paragraph (a) of this subsection or by rule of the State Board of Education must grant to a student a waiver of the requirements established by the school district or public charter school if the student is or, at any time from grade 9 to 12, was

(i) A foster child, as defined in ORS 30.297;

(ii) Homeless, as determined under rules adopted by the State Board of Education based on standards adopted by the Department of Human Services;

(iii) A runaway, as determined under rules adopted by the State Board of Education based on standards adopted by the Department of Human Services;

iv) A child in a military family covered by the Interstate Compact on Educational Opportunity for Military Children, as determined under rules adopted by the State Board of Education;

(v) A child of a migrant worker, as determined under rules adopted by the State Board of Education; or

(vi) Enrolled in the Youth Corrections Education Program or the Juvenile Detention Education Program.

(B) For any student identified under subparagraph (A) of this paragraph, a school district or public charter school must accept any credits earned by the student in another school district or public charter school and apply those credits toward requirements specified by paragraph (a) of this subsection or by rule of the State Board of Education if the credits satisfied those requirements in that other school district or public charter school.

• **Child Nutrition/National School Lunch Program**

All students in foster care are eligible for meals at no cost under the School Breakfast Programs as well as the National School Lunch Program. Foster parents should enroll their foster student or young adult in the National School Lunch Program regardless of whether or not they intend to use it, as it may make the student or young adult eligible for other school fee discounts and exemptions. The foster parents do not need to report their income for a student in foster care to be eligible for Free and Reduced Lunch.

"National School Lunch Program" means the program under which participating schools operate a nonprofit lunch program in accordance with Part 210, Title 7, Code of Federal Regulations. Cash assistance and donated food assistance are made available to schools pursuant to this program.

** There is currently a plan to have automatic certification of foster students for free and reduced lunch, through a data sharing agreement between DHS Child Welfare and ODE. The goal is for this to launch sometime during the 2018 – 2019 school year.

School Nutritional Programs Eligibility Quick Reference Guide link

Eligibility Manual for School Meals Determining and Verifying Eligibility link.pdf

• **School Activity Fees**

Students in DHS Child Welfare custody, like all students, have fees associated with school activities. Given that ORS 339.147 and 339.155 give school districts the ability to waive fees for students who qualify for free or reduced price school meals, under the National School Lunch Program. Since students in DHS Child Welfare custody automatically qualify for free or reduced price school meals under, the National School Lunch Program, these students also automatically qualify to have their fees considered and reduced by the school district. However, in some situations, school districts may choose to use Title 1 funds to pay for fees occurred by DHS Child Welfare custody foster care students.

ORS 339.147 When tuition authorized; waiver of tuition and fees

(1)(b) As used in this subsection, "low-income family" means a family whose children qualify for free or reduced price school meals under a federal program, including but not limited to the National School Lunch Act and the Child Nutrition Act of 1966, and all their subsequent amendments.

ORS 339.155 Prohibition of certain fees as condition of admission; allowable fee link

- **Tribal Child Welfare Agency**

Because both states and tribes may operate Title IV-B and IV-E programs, the term “State agency responsible for administering State plans under parts B and E of Title IV of the Social Security Act” as used in ESEA section 1111(g)(1)(E) includes both States and tribes responsible for administering plans under Titles IV-B and IV-E. Therefore, the term “the State or tribal child welfare agency” as used in this guidance means both State and tribal agencies responsible for administering plans under Titles IV-B and IV-E.

- **Title I Requirements**

The requirements for ensuing educational stability for children in foster care under section 1111(g)(1)(E) apply to all children in DHS Child Welfare Foster Care enrolled in schools in the SEA. Consistent with the Fostering Connections Act, “foster care” means 24-hour substitute care for children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and preadoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the State, Tribal or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made. (45 C.F.R. § 1355.20(a)).

- **Post High School Transition Information and Resources**

DHS/Independent Living Programs:

The Independent Living Program (ILP) helps youth who are, or were, in foster care to become self-sufficient adults. It gives an opportunity to learn valuable skills necessary to make a successful transition from state or tribal custody to living on your own in the community.

You may be eligible for services through the Independent Living Program to help with building skills to live on your own, funds for continuing your education and assistance with housing.

<http://www.oregon.gov/dhs/children/fostercare/ILP/Pages/Index.aspx>

DHS/Oregon Fee Waiver:

If you are a student from foster care, college may seem impossible. With little to no family support or savings, a college degree can seem out of reach. Can you relate to these feelings? If so, you should know that relief is here. A new law guarantees that you have access to Oregon community colleges and public universities tuition free.

<http://www.oregon.gov/DHS/CHILDREN/FOSTERCARE/ILP/Documents/Youth%20Flyer%202015.pdf>

DHS/Financial Aid for Higher Education:

FAFSA (Free Application for Federal Student Aid) - Applying for federal student aid is quicker and easier than ever.

<http://www.oregon.gov/DHS/CHILDREN/FOSTERCARE/ILP/Pages/financial-aid.aspx>

Oregon Foster Youth Connection:

Free College Tuition for Former Foster Youth. New law gives tuition & fee waivers to youth for Oregon community colleges and public universities.

<https://oregonstudentaid.gov/grants-doc/TuitionWaiverQuickFacts.pdf>

21 Things every Foster Youth should do before Leaving Foster Care:

Transitioning out of foster care can be a scary journey if you are not prepared. Foster Club recommends these 21 things every foster youth should do before they exit out of care in order to be prepared and have a successful transition to independence.

<https://www.fosterclub.com/transition/article/21-things-dont-leave-foster-care-without-them>

Foster Care to Success (FC2S):

FC2S partners with organizations, foundations, and individuals to deliver scholarships to foster youth across the country. With this funding and our support, hundreds of young people reach their educational goals every year.

<http://www.fc2success.org/programs/scholarships-and-grants/>

<https://www.careeronestop.org/JobSearch/Resumes/ResumeGuide/Introduction.aspx?&frd=true>

My Skills My Future:

1- Tell us a job you've had .2- We'll find careers with similar skills 3- Pick a career and explore!

<https://www.myskillsmyfuture.org/>

Western Oregon University: Foster Collegiate Success Program:

Western Oregon University's Fostering Success Initiative is a grassroots, campus-based program begun in 2015 with the goal of effectively serving students who have experienced foster care. We work to connect students with the many support services available at WOU and in the community and we contribute to a foster-friendly campus environment through education, awareness, mentorship and support services. Most importantly, we strive to create a community and college campus that foster students can call "home."

<http://www.wou.edu/foster/>

Portland State University: Project Futures

The focus of this project is to enhance self-determination and community participation to help young adults build skills to navigate the university system and increase postsecondary success and engagement. Project FUTURES will identify and outreach to young adults who are a freshman, sophomore, or junior at PSU or PCC, who have a history of significant mental health challenges, who are 26 or younger and who were or are currently in foster care. Young adults who are in or were in foster care and are entering their freshman year at Portland State University will be paired with an upper division student at Portland State University. Upper division students will be identified as near peer coaches who are further along in their education and will support first year students for one year. Both the near-peer coaches and participants of FUTURES will have lived experience in the foster care system and mental health challenges.

<https://www.pathwaysrtc.pdx.edu/p1-project-futures>

Portland Community College: Foster Success Program:

Welcome to the PCC Fostering Success resource page. Our program provides a support network and individual coaching to enable students who have experienced foster care to successfully complete career and educational goals.

<https://www.pcc.edu/fostering-success/>

D: FREQUENTLY ASKED QUESTIONS

- **To which students do the Foster Care requirements to ensure the educational stability of students in foster care apply?**

These stability provisions apply to students in DHS Child Welfare and tribal care and custody. In ESSA, “foster care” means 24-hour substitute care for children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the State, Tribal, or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made. (45 C.F.R. § 1355.20(a)).

- **Charter Schools**

A DHS Caseworker, has requested transportation for a student who attends a Charter School. This is a school in which a parent enrolled the student into a lottery and received a slot to attend. This student has been attending this school since September 2017. When a student is chosen through the lottery process and given a slot to attend this school it is with the understanding that the parent will provide transportation to/from the school. Now that the student is in DHS Child Welfare custody is School District of Origin Transportation required?

Yes, to the extent that a charter school is considered an LEA under a State’s charter school law, it must meet the transportation requirements on the same basis as any other LEA. (ESSA Non-Regulatory Guidance #31).

- **Data Systems**

I struggle in identifying our DHS Child Welfare Foster Care Children. Is there a notification system in place that informs School Districts when children are placed into DHS Child Welfare Foster Care?

DHS Caseworkers must notify the school district Foster Care Point of Contact in writing, when DHS has care and custody of a student granted or dismissed. The school district should identify procedures so that notification is also given to the school in which the student attends.

- **Educational Programming and School Activities**

Are districts required to provide transportation to/from school activities and supports?

Yes, we want our Foster Care students to access a full range of school activities. If the Foster Parents are unwilling or unable to provide transportation to/from school activities and sports, the school district must provide this transportation. Transportation could be provided by a bus or reimbursement to foster parents. Transportation could be provided by other individuals, but these individuals would need to meet the background check required for bus drivers or other school staff. The cost of this transportation could be reimbursed by the School District of Origin Transportation Reimbursement Process.

If a school is offering summer school for credit recovery, and a foster family would like their Foster Child to access it, does the School District of Origin need to provide transportation to this service.

LEA must ensure that students in DHS Child Welfare have equal opportunities to meaningfully participate in all educational programming, as well as curricular and extracurricular activities. If the student needs to access School District of Origin Transportation to participate in these activities then the School District of Origin needs to provide this transportation.

- **Free and Reduced Meals**

Who enters the data for a Foster Child to be enrolled in the free/reduced meal program?

Once a DHS Foster Child is enrolled the Foster Care Point of Contact can share this information with the food service staff. There is no need for the Foster Parent to fill out the Free/Reduced Meals paper work. DHS Child Welfare Foster Care children automatically qualify for Free/Reduced meals.

It has come to our attention that not all Foster Parents are accessing free meals for their Foster Students. Would it be allowable for a School District Foster Care Point of Contact to authorize free meals when we learn of students in DHS Child Welfare Foster Care?

Yes it would be appropriate for School District Foster Care Point of Contacts to authorize free meals.

All students in foster care are eligible for meals at no cost under the School Breakfast Programs as well as the National School Lunch Program. In the near future (sometime during the 2018-2019 school year), this process will become an automatic certification process, through a data sharing between DHS and ODE.

- **Homeless and McKinney-Vento**

We have a situation where a student had been in DHS Child Welfare Foster Care and then became homeless because DHS placed the child back with a parent on a trial basis. The parent is living in a doubled up situation so they are considered homeless. The location where the parent is currently living is well outside the School District of Origin. Who should be setting up and paying for transportation? The School District of Origin or the School District where the parent is currently living?

The student's School District of Origin should continue to provide the educational programming and transportation for this student. Since the student is no longer "in foster care" away from their parents, McKinney-Vento may apply. Check in with your statewide McKinney-Vento coordinator when it appears both Foster Care and McKinney-Vento may apply.

- **LEA Foster Care Point of Contact**

Is there a guideline for the amount of FTE a school district should allocate for the Foster Care Point of Contact position?

ODE and DHS do not provide any guidance regarding the FTE a school district should allocate for the Foster Care Point of Contact position. This is an allocation each school district will need to determine.

- **Preschool**

I have a question about School District of Origin Transportation for a preschooler. For our homeless preschoolers, we provide transportation to non-public preschools. Is this the same for Foster Care Students, if a Juvenile Court Places a child?

ESSA School District of Origin Transportation only applies for children attending preschools ran by a school district. It does not apply to Head Start, Migrant Preschools, or private preschools. So, in these situations the School District of Origin would not provide transportation to and from these preschools, even when a Juvenile Court has made a determination for the student to attend preschool in the area where the Foster Home is located. However, if the child receives special education services and the child has specialized transportation on their Individual Family Service Plan, in this case, the school district where the student is living would be responsible for proving special education transportation.

It is my understanding that Head Start programs are not funded by LEA. Is School District of Origin Transportation required for these students?

Head Start Programs are not provided by Public School Districts. So, they don't fall under the ESSA regulations. 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 Best Interest determination is made that it is not in the child's best interest. (See ESEA section 1111(g)(1)(E)).

- **School District/School of Origin**

A student is attending their School of Origin, which also happens to be the school in the neighborhood where the foster parents live. The foster parents are planning to move to another school district. Would the student stay in the current school or move to the school in the boundaries of the foster parent's new home?

The student's School of Origin will remain to be the same school they are currently attending. If the plan is to have the student go to school in the new school district, a Best Interest Finding from the Juvenile Court would need to be obtained, before the school placement could change.

A caseworker contacted the district about an incoming kindergartner. The foster parent (grandma) lives in School District A, which is the School District of Origin. The caseworker is wanting the child to go to a school in School District B, as it would be a better fit for the student. The caseworker would also be requesting transportation. Am I allowed to tell the caseworker that child needs to register in the child's neighborhood school?

Yes, this student needs to register at their neighborhood school where the foster home is located, since it is the School of Origin. You'll need to provide regular transportation for this student to attend their neighborhood school.

A student was placed into DHS Child Welfare Foster Care, but has not attended school for the last two years and has no current school enrollment. What is the student's School of Origin?

If the student has no clear School of Origin due to non-attendance, the student can be enrolled in the school within the boundaries where the foster parent lives, which will become the School of Origin.

We have a student who is being returned to her family by DHS Child Welfare, but they are calling this a DHS Child Welfare Foster Placement for the next 6 months. Is School District of Origin Transportation required in this situation?

There are some differences between the ESSA definition of foster care and DHS definition of foster care. DHS will often do a trial home visit for a period of up to six months, before DHS custody is released, and this is considered foster care. ESSA states foster care is placement away from the parents. While the school may not be legally mandated to provide attendance at School of Origin and transportation during this trial home visit, it would be good practice. For this reason, DHS and ODE will pay for School of Origin transportation as long as DHS maintains legal custody. We ask schools and caseworkers to think thru the following factors: How long will DHS maintain custody? Where are we in the school year calendar? Can the parent provide transportation when DHS no longer has custody? Is there a natural transition in the school calendar which would be a good time for the student to enroll in the school within the boundaries of the parent? How difficult will it be for the student to transition to a new school?

- **Special Education**

I have a preschool student in DHS Child Welfare Foster Care who has an Individual Family Service Plan (IFSP) and needs transportation to their Early Childhood Special Education (ECSE) program. Is School District of Origin Transportation required in this situation?

Early Childhood Special Education programs do not fall under ESSA regulations. In this case, the student would attend an ECSE program in the Foster Home area. It will be the responsibility of the School District in this area to provide transportation to/from the ECSE as a part of the students IFSP. This transportation is not eligible for School District of Origin Transportation Cost reimbursement.

We are in the process of doing kindergarten transitions for students who are entering kindergarten next school year and are currently receiving Early Childhood Special Education services. We have a student who is placed into DHS Child Welfare Foster Home outside our School District boundaries. What is the School District of Origin for this student when they enter kindergarten?

This student should be enrolled in the School District where the Foster Home is located. This will become the student's School District of Origin. This School District will be responsible for School District of Origin Transportation (if needed), as well as all needed Special Education services

I have a question regarding LTCT transportation. Do School Districts need to provide transportation to these programs in the summer for students in DHS Child Welfare Custody?

Yes, School Districts must provide transportation to/from LTCT for all students enrolled in this type of programming.

OAR 581-015-2574 Resident District Obligations for Students in Long-Term Care and Treatment (LTCT) Education Programs

The resident district must provide or pay for the daily transportation to and from a Psychiatric Day Treatment Program in which a student placed by a public entity, private entity or by the student's parent is enrolled as follows:

The resident district may directly transport or contract for transportation services with the agency, an adjacent school district, an education service district or a private carrier as long as the subcontractor is operating under the provision of ORS 801.455, 801.460, and 820.100 through 820.150, or is exempt from these regulations by operating under the Public Utility Commission, ORS Chapter 767, or city regulations included in ORS Chapter 221.

Subject to agreement with the parent or guardian, the resident district may reimburse a parent or guardian for the transportation of a child at the per mile rate established by that district.

Transportation must be provided by the resident district each day the student is scheduled to receive services from the eligible day treatment program.

What happens when a student is in their "school district/school of origin," but the IEP determines a different school or educational setting is more appropriate to meet the child's special education needs?

The school district of origin is responsible for providing a continuum of special education services. In the case when a foster student is eligible for special education services, the IEP team will determine the appropriate special education placement. If this special education placement is in a different school or school district, a Best Interest Finding from the Juvenile Court **would not** be necessary to make the school placement. The IEP team will be made up of the foster parent, special education teacher, special education specialist, content area teacher/grade level teacher, building and/or district level administrator, and when available the DHS caseworker.

What happens when a Best Interest Finding is made for a student eligible for special education services?

If a court determines that a student with a disability should no longer attend the school district/school of origin, the Best Interest Finding would result in the student with a disability attending the school district where the foster home is located. In this case, it would be the responsibility of the school district (school district of residency) where the foster home is located to enroll the student and develop a school placement, and provide IEP services based on the information included in the student's IEP.

- **Parent/Surrogate Parent**

Regarding surrogate parents, has there been a rule change to allow DHS Caseworkers to act as the surrogate parent for Special Education purposes? Several DHS Caseworkers are indicating to us that they can sign for all educational purposes.

No. Caseworkers sometimes get confused because they are the legal guardian who signs for all other parts of a child's life. When children are in foster care, the foster parent will act as the parent for educational purposes, unless a surrogate parent has been assigned. See the definition of "parent" below:

OAR 581-015-2000 Definitions

(21) "Parent" means:

One or more of the following persons:

A biological or adoptive parent of the child;

A foster parent of the child;

A legal guardian, other than a state agency;

An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

A surrogate parent who has been appointed in accordance with OAR 581-015-2320, for school-age children, or 581-015-2760 for preschool children.

Except as provided in subsection (c), if more than one person is qualified to act as parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive parent is presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child. If a judicial decree or order identifies a specific person to act as the parent of a child or to make educational decisions on behalf of a child, then that person will be the parent for special education purposes. If judicial decree or order identifies a specific person under subsection (a) to act as the parent of a child or to make educational decisions on behalf of a child, then that person will be the parent for special education purposes.

If surrogate parent is needed, the appointed surrogate must not be an employee of the school district, ODE, DHS, or any other agency that is involved in the education or care of the child. This person should be free from all personal or professional interest that conflict with representing the child's special education interests. The surrogate parent must have knowledge and skills that ensure adequate representation of the child in special education decisions. An appointed surrogate parent has all of the special education rights and procedural safeguards available to the parent.

- **Transportation**

Do School Districts provide School District of Origin Transportation when a parent is doing a voluntary placement into a DHS Developmental Disability (DD) Foster home?

ESSA provisions only apply to children in Child Welfare Foster Care and Custody. Children placed in DD Foster home, where the parent retains legal custody, attend school where the DD Foster Home is located.

Do we transport when a Foster Child is being transitioned back home with a parent?

Transportation can only be provided while the student remains in DHS Child Welfare custody. When students are returned home mid school-year, several factors need to be considered. How long does DHS plan to maintain custody? Would the parent be able to transport when custody ends? Is there a natural transition time where it makes sense for the child to enroll in the school of residence? Even though ESSA mandates end, when children are returned to their parents, best practice would be to have the child continue in the school, until a natural transition to a new school can occur. For this reason, we will pay for transportation, but once DHS no longer has custody the transportation would be the responsibility of the parent.

Can city bus pass be provided by DHS?

Yes, check with the DHS Caseworker.

Can Foster Parents be reimbursed for providing transportation to/from the School District of Origin?

Yes, Foster Parents can be reimbursed for providing School District of Origin Transportation. This cost can then be reimbursed through the School District of Origin Transportation Reimbursement process.

Does a DHS Case Worker need to submit a School District of Origin Transportation Request form each time the pickup location for the Foster Child changes?

Yes, The School District needs to know the Foster Child's new address along with any new emergency contact information.

- **Transportation Reimbursement**

Can we recover administrative costs?

Yes, by using established mileage rates along with any costs associated with employee salary/pay.

How do I record student that is placed in multiple foster homes during Time Period?

If a student experiences placement in more than one foster residence, requiring transportation to school of origin, use multiple lines on the invoice for same student, altering the dates of Service Start and End date as well as the mileage/cost data that pertains to that route and mode of transport.

When placement is for entire family – how do you track and provide continuity?

DHS will make this placement on a per child basis based on the individual needs.

Is the tracking on a school calendar, the budget year, or the calendar year?

School Year. July 1 – June 30.

Who notifies whom when a Foster Student needs transportation established?

DHS will notify the Foster Care Point of Contact and submit a Request for Transportation.

How do we track students that have 504 or IEP needs?

The Transportation Request Form allows for this information to be indicated and the IEP attached. The following links on the ODE website will provide further information in regard to the 504 or IEP.

Would a column for court ordered service be added?

No. ESSA set's the default to the child stays in his school of origin. A court order is no longer required. A court order would be drafted if a juvenile court makes a determination that it is not in the best interest of the individual to continue attending the school of origin.

Is there a column for reimbursement received or when the loop financially is closed? Is there a way to know?

Reimbursement will be done through the Electronic Grant Management System (EGMS), so the forms don't go back to the district.

Is there a formula for how to determine costs or can it be provided?

Based on the current model for transportation, where school districts are reimbursed for approved costs, we have elected not to establish a definitive formula. We will have a sample formula to use (similar to the marginal cost calculation already in rule) for when students are added to a bus route. Many students may be transported individual in type 10, so we want districts to be able to just claim the full cost of that. Marginal costs wouldn't work because it looks at the district wide cost per mile per student. An individual ride would be more expensive.

Can we generate a report from VersaTrans that could be copied and pasted into a lot of the fields? Some of the information such as, "DHS person ID number" is not something currently tracked. If this information was added to the request for transportation we could probably semi-automate that data too.

This data is absolutely required in order for us to get funding from DHS. The data collected from the districts needs to be uniform as it will feed into another report.

Can we drop (copy/paste) information into the form? Are the fields requesting our information locked?

Yes, you should be able to copy and paste into the fields requesting information as they are not locked on the template.

Can the district create a text file (.csv) or an Excel file from their respective routing programs as long as they supply the required information in a standardized format?

We would recommend reaching out to your IT specialist to advice. The file could be formatted in such a way that you can easily copy and paste as needed on the invoice template.

The DHS person ID number comes to the district in a word document received from DHS. Does ODE/DHS expect us to alter our electronic tracking system to accommodate this?

The School District of Origin Transportation Request Form you receive from DHS will have the DHS person ID number provided in order for you to establish a transportation plan.

If the foster parent requests transportation but we don't have the official DHS form, can we still bill for that - as long as we have the needed information?

You really need to get the appropriate form from the DHS Case Worker. Not only do you need to know the DHS person ID number located on this form, but there is also critically important contact information on this form as well as special ed., behavior, health information. You cannot submit a claim for reimbursement without the DHS person ID number.

Should we plan to use the ODE rate for mileage unless there is an extraordinary cost for some reason?

You really need to determine how much the additional cost will be to provide this transportation. The mileage rate per mile may not be an appropriate method to establish how much it cost to transport a student on a bus... or other transportation modes (van, cab... etc.)

We think there may be multiple line entries per student if placements change - and hence the mileage/route. That won't present a problem will it - as long as the service dates are different?

No, we anticipate that some students will have multiple lines of the form, that's the nature of these students moving around.

We currently have a transportation company providing transportation for some of our MV & Foster Care students. They charge us a service fee and a per student fee instead of a mileage fee. Can I claim both of those fees?

Yes

How does an LEA submit claims on EGMS?

To access EGMS, go to the ODE District website at this secure webpage. Once there, go to Central Login. To enter, you will need a Username and Password. This is obtained from your Security Administrator. If you don't know who your Security Administrator is, click on "Locate your District Security Administrator," indicate your Institution ID or District Name, and your Security Administrator will be identified. When you are able to log-in, click on "E-Grant Management Systems (EGMS)." All LEAs and agencies will submit claims electronically when they wish to request funds for sub-grants issued by ODE. For EGMS purposes, people who submit claims are identified as Claim Administrator(s). Each LEA or agency must identify their Claim Administrator(s) so the Web-Claims feature will appear on their menu when they log in. To access the Claim Administrator form and other information concerning the E-Grant Management System (EGMS), please visit this webpage

- **Tribal or Indian Child Welfare**

How do ESSA Foster Care Stability mandates apply to children in Tribal Child Welfare custody?

Children in in Tribal or Indian Child Welfare Custody have the same ESSA Foster Care Stability support systems as all children in DHS Child Welfare Foster Care. The Tribal or Indian Child Welfare Courts make Best Interest Findings in the same manner as Juvenile Courts.

E: TERMS

Oregon Department of Education Terms

- **Children with Disabilities/Students with Disabilities** means children or students evaluated in accordance with OAR 581-015-2100 through 581-015-2180 as having autism spectrum disorder; communication disorder; deafblindness; emotional disturbance; hearing impairment, including deafness; intellectual disability; orthopedic impairment; other health impairment; specific learning disability; traumatic brain injury; or visual impairment, including blindness, and who, by reason thereof, need special education and related services. **FAPE under IDEA** means school districts must make a free appropriate public education (FAPE) available to all eligible children with disabilities in the least restrictive environment (LRE). FAPE under IDEA includes the provision of special education and related services at no cost to the parents in accordance with a properly- developed individualized education program.
- **EI/ECSE** means early intervention/early childhood special education and refers to services or programs for preschool children with disabilities.
- **FAPE under Section 504** means the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met, and that include adherence to specific procedural requirements.
- **Foster Care** means 24-hour substitute care for children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the State, Tribal or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made.
- **Health Assessment Statement** means a written statement issued by a nurse practitioner licensed by a State Board of Nursing specially certified as a nurse practitioner, or by a physician assistant licensed by a State Board of Medical Examiners. Both a nurse practitioner and a physician assistant must be practicing within his or her area of specialty.
- **Individualized Education Program (IEP)** means a written statement of an educational program which is developed, reviewed, revised and implemented for a school-aged child with a disability
- **Local Education Agency** means school district.
- **Least Restrictive Environment** means that to the maximum extent appropriate, children with disabilities are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that the child cannot be educated satisfactorily in regular classes with the provision of supplementary aids and services (34 C.F.R. § 300.114(a).
- **Medical Statement** means a written statement issued by a physician licensed by a State Board of Medical Examiners.
- **Parent** means one or more of the following persons: a biological or adoptive parent of the child; a foster parent of the child; a legal guardian, other than a state agency; an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or a surrogate parent who has been appointed in accordance with OAR 581-015-2320, for school-age children, or 581-015-2760 for preschool children. OAR 581-015-2000(21)
- **School District of Origin** means the school district where an individual was a resident before: the individual was placed into foster care; or the foster care placement of the individual changed. ORS 339.133(c)(A)(B)
- **School of Origin** means the school that an individual attended before: the individual was placed into foster care; or the foster care placement of the individual changed. ORS 339.133(d)(A)(B)
- **Special Education** means specially designed instruction that is provided at no cost to parents to meet the unique needs of a child with a disability. "Special education" includes instruction that:
 - May be conducted in the classroom, the home, a hospital, an institution, a special school or another setting; and
 - May involve physical education services, speech language services, transition services or other related services designated by rule to be services to meet the unique needs of a child with a disability.

- **State Education Agency** means the Oregon Department of Education.

Department of Human Services Terms

- **504 Plan** means a plan created pursuant to Section 504 of the Rehabilitation Act of 1973, which ensures that a *child* who is legally disabled and is attending an elementary or secondary educational institution receives accommodations that will ensure the child's academic success and access to the learning environment.
- **CASA** means Court Appointed Special Advocate, a volunteer who is appointed by the court, is a party to the juvenile proceeding, and is an advocate for the *child* pursuant to ORS 419A.170.
- **Child** means a person under 18 years of age.
- **Disability** means one of the following conditions or diagnoses that causes the *child* or student to require special education: autism spectrum disorder; communication disorder; deafblindness; developmental disability emotional disturbance; hearing impairment, including deafness; intellectual disability; orthopedic other health impairment; specific learning disability; traumatic brain injury; or visual impairment, including blindness.
- **Foster Care** means substitute care for children placed by the Department of Human Services or a tribal child welfare agency away from their parents and for whom the Department or agency has placement and care responsibility, including placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and preadoptive homes.
- **Foster Parent** means a person who operates a home that has been approved by the Department to provide care for an unrelated *child* or *young adult* placed in the home by the Department.
- **GED** means a General Educational Development certificate issued pursuant to ORS 350.175.
- **Guardian** means an individual who has been granted guardianship of the *child* through a judgment of the court.
- **Individualized Education Program or IEP** means a written statement of an educational program which is developed, reviewed, revised and implemented for a school-aged child with a *disability*.
- **Legal custody** means that a person or agency has legal authority: a) To have physical custody and control of a *child*; (b) To supply the *child* with food, clothing, shelter and other necessities; (c) To provide the *child* with care, education and discipline; (d) To authorize medical, dental, psychiatric, psychological, hygienic or other remedial care or treatment for the *child*, and in any emergency where the child's safety appears urgently to require it, to authorize surgery or other extraordinary care; and (e) "Legal custody" includes temporary custody of a *child* under an order of a court.
- **Office of Child Welfare Programs or OCWP** means the Office of Child Welfare Programs within the Department. "OCWP" includes all the individual programs that are responsible for various functions relating to child welfare, such as child safety, foster care, and permanency.
- **Parent** means, except as otherwise provided in OAR 413-105-0060, the biological or adoptive mother or the biological, legal, or adoptive father of the *child*. Education Services OAR 413-100-0900 to 413-100-0940
- **Relative Caregiver** means a person defined as a "relative" under OAR 413-070-0000 who operates a home that has been approved by the Department to provide care for a related *child* or *young adult* placed in the home by the Department.
- **School District of Origin** means the school district where a *child* or *young adult* was a resident before: (a) The *child* or *young adult* was placed into *foster care*; or (b) The *foster care* placement of the *child* or *young adult* changed.
- **School of Origin** means the school that a *child* or *young adult* attended before: (a) The *child* or *young adult* was placed into *foster care*; or (b) The *foster care* placement of the *child* or *young adult* changed.
- **Special Education** as defined in OAR 581-015-2000 means specially designed instruction that is provided at no cost to parents to meet the unique needs of a child with a disability. Special education includes instruction that: (a) May be conducted in the classroom, the home, a hospital, an institution, a special school or another setting; and (b) May involve

physical education services, speech language services, transition services or other related services designated by rule to be services to meet the unique needs of a child with a disability.

- **Substitute Care** means the out-of-home placement of a *child* or *young adult* who is in the legal or physical custody of the Department.
- **Substitute Caregiver** means a relative caregiver, *foster parent*, or provider who is authorized to provide care to a *child* who is in the legal or physical custody of the Department.
- **Surrogate Parent** means an individual appointed pursuant to OAR 581-015-2320 for school-aged children, OAR 581-015-2760 for preschool-aged children or ORS 419B.220. The surrogate parent acts in place of a biological or adoptive parent in safeguarding a child's rights in the special-education decision-making process.
- **Young Adult** means a person aged 18 through 20 years.

F: ADDITIONAL RESOURCES AND INFORMATION

- **[ODE: Foster Care- Improving Educational Outcomes for Children in Foster Care website](#)**

G: FORMS

- **DHS Child Welfare Foster Care Student: School Notification form**
- **Foster Student School District/School of Origin Transportation Request form**
- **School District of Origin Transportation Cost: ODE Reimbursement form**
- **OSBA Model Sample Policy**