

Fostering Connections and the Every Student Succeeds Act: Joint Guidance for School Stability of Children and Youth in Foster Care

file, with copies provided to the birth parents, prior custodians, and/or the foster, adoptive or resource parent(s), as appropriate.

VIII. Resolving School Placement Disputes

It is the responsibility of the LDSS and the school division to collaborate in determining the student's best interest for school placement and to resolve any conflict concerning the school placement decision. Any BID decision can be disputed by:

- the LDSS that has custody of the child; or
- the school division acting as the decision maker in the BID process.

If educational stability is disrupted or the BID was required and not conducted, the following parties may dispute the educational placement:

- the student;
- parents of the student, unless educational rights have been terminated;
- the school division that is not the BID decision maker if the foster care placement crosses school division boundaries.

When a BID is challenged, the procedure delineated below should be followed to resolve school placement disputes.

1. During the resolution process, the student *remains* in the school in which he or she was enrolled at the time of placement in the new residence.
2. Transportation to the school of origin must be provided during the dispute process as described in Section VI of this joint guidance document.
3. Within five work days of the best interest determination decision, a dispute may be initiated by any of the parties noted above. A written request to challenge the BID must be submitted to the BID decision-making school division superintendent (or designee) and the LDSS director (or designee, such as the educational stability liaison) to review the best interest determination documentation.
4. Within ten work days following the submission of a written request, the superintendent and director (or designee) review the Best Interest Determination for Foster Care School Placement Form (FC/ESSA Form B-17) which documents 1) the factors that were considered in determining the school placement that is in the student's best interest; 2) the team's determination for school placement; 3) the participants involved; 4) whether each participant agreed or disagreed with the team's determination; and 5) the reasons for agreement or disagreement. The superintendent and director (or designees) also review

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any additional information pertinent to the dispute and efforts made to resolve the dispute. They work together to resolve the dispute.

5. If the LDSS director (or designee) and the school division superintendent (or designee) reach consensus regarding the student's best interest for school placement, the LDSS case worker and the foster care liaison are informed of the decision and should implement the appropriate next steps to ensure the student's school placement.
6. If the two parties cannot agree, they should seek guidance and consultation from their respective state agencies. This request is submitted within the same ten-day timeframe. The LDSS submits this request to the Virginia Department of Social Services, Foster Care Unit, while also ensuring that the appropriate Regional Foster Care Consultant has been made aware of the case. Local school divisions submit their requests to the Virginia Department of Education, Office of Student Services.
7. After the Virginia Departments of Education and Social Services work together to provide guidance and technical assistance to the involved local agencies, the school division superintendent (or designee) and LDSS director (or designee), in consultation with the team, make the decision for placement.
8. All written documentation is placed in the student's case file and the student's cumulative record to be available for any required federal reviews.

Note: This dispute process is intended to address school stability and school placement. For students with disabilities, the determination regarding the ability of a student to receive FAPE is the exclusive decision of the student's IEP team. Such a determination may only be challenged through the established dispute resolution mechanisms of special education law – i.e., mediation, a state complaint, or due process hearing. The IEP team determination, or the determination reached through the special education dispute resolution process is final.