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Administrative Directive

Transmittal:	12-OCFS-ADM-03
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Strategic Planning and Policy Development
Date:	February 15, 2012
Subject:	New Requirement Regarding Educational Stability of Foster Children
Suggested Distribution:	Directors of Social Services Child Welfare Supervisors Staff Development Coordinators
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Attachments:	No
Attachment Available Online:	N/A

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18 NYCRR 430.11 (c) (1) (i) 430.12 (c) (4)	§ 106 of the Child and Family Services Improvement and Innovation Act of 2011 (P.L. 112- 34); § 475 (1) (G) of the Social Security Act [42 U.S.C. § 675 (1) (G)]; § 204 of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110- 351)		ACYF-CB-PI- 10-11

I. Purpose

The purpose of this Administrative Directive (ADM) is to advise local departments of social services (LDSS) and voluntary authorized agencies of an important new provision of federal law, the Child and Family Services Improvement and Innovation Act (P.L.112-34), which went into effect on October 1, 2011. This legislation revises the educational stability provisions found in Section 475 (1) (G) of the Social Security Act, by applying them both when a child is first placed in foster care and at any subsequent move that occurs during the time the child remains in foster care.

II. Background

The educational stability provisions of Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) originally only applied to the child's entry into foster care. They required that the placement of a child into foster care take into account the appropriateness of the child's current educational setting, and the proximity of the child's foster care placement to the school in which the child is enrolled at the time of placement. Furthermore, they required coordination with appropriate local educational agencies (school districts) to ensure that the child remains in the school in which the child is enrolled at the time of placement or, if remaining in such school is not in the best interests of the child, that immediate transfer of records and enrollment in the new school occur.

The federal Children's Bureau (part of the Administration for Children and Families) issued program instruction ACYF-CB-PI-10-11 on July 9, 2010 advising that these requirements "... relate to the circumstances at the time of the child's initial placement into foster care, however, we encourage the title IV-E agency to update educational stability plans whenever a child changes schools during his/her stay in foster care." With the passage of P.L. 112-34, educational stability provisions now apply during every change in foster care placement.

The New York State Office of Children and Family Services (OCFS) promulgated regulations which became final on March 20, 2011 to comply with P.L. 110-351. The regulatory amendments related to educational stability of foster children in New York State can be found at 18 NYCRR 430.11 (c) (1) (i) and (c) (2) (ix). OCFS has filed an amendment to 18 NYCRR 430.11 (c) (1) (i) on an emergency basis to comply with the new provisions of P.L. 112-34.

III. Program Implications

In order to meet the educational stability requirement at the time of the child's initial placement into foster care and at each foster care placement change, the LDSS is vested with the responsibility for making educational stability plans, on a case-by-case basis, on behalf of each child in foster care. This is a complex balancing act, as there is no one hierarchy of considerations to use in making the plan. The LDSS has the flexibility to determine which factors will be examined in deciding whether remaining in the school of origin or current school is in the child's best interests. Some examples of factors that may be considered when making a best interests determination include:

- Safety concerns
- Child's preference to change schools or remain in the current school
- Parent's preference to have the child change schools or remain in the current school
- The appropriateness of educational programs in the current school or another school, and how each school serves or can serve the child's needs (including special education and other interests)
- Expected length of child's foster care placement, considering whether the child is likely to be returning home after a brief stay in foster care, or whether a change in placement is anticipated in the near future
- Child's permanency plan
- Child's need for proximity to the family
- Placement with siblings or relatives
- Available foster care resources
- Child's age
- Child's grade level
- Child's maturity level
- Number of school disruptions the child has already experienced
- Other child-centered needs, including social adjustment and well-being (for example, what are the strengths of the child's ties to peers and staff

- members at the current school; how would changing schools affect the child emotionally)
- How changing schools would affect the student's ability to earn full academic credit, proceed to the next grade, or graduate on time
 - Involvement in extracurricular activities
 - Input from representative of child's current school at time of removal or move
 - Proximity of placement home to child's current school
 - Length of commute and its impact on the child
 - What schools any siblings attend
 - What schools any other children in the foster home attend
 - Point of time in school year and whether the timing of any school transfer would coincide with a logical juncture such as standardized testing, report card period, end of semester, end of school year.

It should be noted that the cost of school transportation is not to be a factor in determining the best interests of the child for school selection. (Note: In cases where the LDSS pays for the cost of transportation, federal reimbursement at 50% of the cost is available if the child is Title IV-E eligible.)

Input from the child's caseworker, the child's parent(s) (if available and able to provide input), and the child (if developmentally able) must be sought in making the decision related to the child's educational stability plan. In addition, other parties' input should be encouraged, including school personnel or education advocates, foster parents, the child's attorney, and others involved in case planning for the child.

If the child changes schools, the LDSS must coordinate with the appropriate school officials to enable the prompt transfer of records and enrollment in the new school. These provisions apply at the initial placement of the child into foster care and each time the child is moved to a different foster care placement.

Child welfare staff is reminded to make every effort to recruit and retain foster parents from neighborhoods and communities with high numbers of entering foster children. Recruitment efforts should include utilizing school-based recruitment activities, where possible. With such efforts, foster care placements are more likely to be available in the school district the child already attends, obviating any need for the child to change schools in the first instance.

IV. Required Action

As of October 1, 2011, the initial placement of the child into foster care and all subsequent moves while the child remains in foster care must take into account the appropriateness of the child's existing educational setting and the proximity of such setting to the child's placement location. When it is in the best interests of the foster child to continue to be enrolled in the child's current school, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school

authorities to ensure that the child remains in such school. When it is not in the best interests of the foster child to continue to be enrolled in the current school, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable school authorities to initiate the speedy transfer of school records and to immediately enroll the child in the new school.

The worker responsible for the foster child must document in the child's uniform case record the child's educational plan. The plan must describe the factors considered to reach the best interests determination as well as document the efforts made to maintain the child in his or her current school or to seek immediate enrollment in a new school and to arrange for timely transfer of school records.

V. Systems Implications

None

VI. Additional Information

Casework staff are reminded, consistent with 18 NYCRR 430.12 (c) (4), to record updated education information about each school-age foster child in the CONNECTIONS Education module by October 1 of each school year and whenever a school change occurs.

It is recommended that the policy on educational stability for foster children also be applied, whenever possible, to children removed under Article 10 of the Family Court Act and directly placed in the custody of a relative or other suitable person.

VII. Effective Date

This ADM is effective immediately.

Nancy W. Martinez

Issued By:

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