

## Best Interest Determination (BID) Frequently Asked Questions

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### Best Interest Determination Introduction

Every Student Succeeds Act (ESSA), 42 U.S.C. § 675(1)(G)(ii) includes provisions that are intended to increase educational stability and protect educational rights for children and youth in foster care. Under ESSA, it is assumed that it is in the child's best interest to remain in their school of origin in the event of an out-of-home placement, unless otherwise determined. In order to make that decision, a BID is held to determine whether or not a school move should occur based on a number of factors. Colorado has specific requirements for BID's under Social Services Rules 12 CCR 2509-4. The school-relevant considerations in these rules are outlined in this document.

This FAQ related to Best Interest Determinations (BID) for youth in foster care is intended to help in summarizing the BID intent and process for schools in Colorado. For more details about ESSA and Colorado Statute related to educational stability, please visit the [CDE Foster Care Education webpage](#).

### BID FAQ

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#### What is the definition of "student in foster care"?

A "student in foster care" is synonymous with a "student in an out-of-home placement", which is defined in 22-32-138. C.R.S. as, "Student in out-of-home placement means a child or youth who at any time during an academic semester or term is in foster care and receiving educational services through a state-licensed day treatment facility or who at any time during an academic semester or term is in placement out of the home, as that term is defined in section 19-1-103 (85), including but not limited to any child or youth who is in placement outside of the home at any time during an academic semester or term as a result of an adjudication pursuant to Article 2 of Title 19. 'Student in out-of-home placement' includes a child or youth who transfers enrollment as a result of being returned to his or her home at the conclusion of out-of-home placement."

#### What is meant by the term "out-of-home placement"?

Children and youth in out-of-home placements fall under the ESSA foster care provisions. The out-of-home placement takes place when a child is removed from their home and the county assumes custody. Examples of out-of-home placement settings include foster homes, kinship placements, trial reunifications, residential childcare facilities, group homes, and department of youth services settings.

#### What is meant by the terms "school" and "school of origin"?

"School" means a public school of a school district, a school operated by a Board of Cooperative Services, Institute Charter School, or a state-licensed day treatment facility, or an approved facility school.

"School of Origin" is defined<sup>i</sup> flexibly to ensure children and youth who might not otherwise have a school of origin can attend the school where they have meaningful connections and to ensure children and youth input is considered when selecting a school. Designating a school as the "school of origin" allows

the child or youth to attend there and receive transportation if necessary, even if they live outside the catchment area or transportation would not otherwise be provided.

- In most cases, the school of origin is the school in which a student was enrolled at the time of each placement into foster care. If the student's foster care placement changes, the school of origin is the school in which the student is enrolled at the time of the change in placement. 'School of origin' includes "the designated receiving school at the next grade level for feeder school or zone patterns when the student completes the final grade level served by the school of origin." This definition allows students to continue with their peers as they move from elementary to middle school or middle to high school.
- If the student is "stepping down" from a facility school, including schools in a residential child care facility or secure detention facility, and the student will no longer be enrolled in the facility school, there is flexibility to look back to schools the student has recently attended. The school of origin in these situations is either:
  - the last school the student attended within the previous two years for at least one complete semester or term prior to entering the facility school; or
  - another school where the student had a meaningful connection within the previous two years
- When there is more than one potential school of origin, the student's input must be given strong consideration when determining which school to designate as the school of origin.

### **Are schools responsible for arranging and facilitating BID meetings?**

No. The county departments of human/social services are responsible for initiating, inviting participants, and facilitating BIDs. Social Services Rules 12 CCR 2509-4, 7.301.241 require county departments to coordinate with Local Education Agencies (LEA) to conduct BID meetings prior to the school move.

### **Who is invited to attend BID meetings?**

County departments of human/social services are required to invite the following people to attend best interest determinations: child/youth (in a developmentally appropriate way), parents, caseworker or appropriate designee, guardian ad litem (if one is appointed), representative from the school of origin who knows the child/youth as determined by the LEA, educational surrogate parent, others as relevant and appropriate as determined by the county which includes, but is not limited to: future caregiver, court appointed special advocate (CASA), representatives from potential new school, support person for the child/youth.

### **How are schools initially contacted about the BID?**

Each LEA is required to determine a Child Welfare Education Liaison (CWEL) as a single point of contact as defined under C.R.S. 22-32-138. A current list of CWEL's can be found on the [CDE Foster Care Education Webpage](#). County departments of human/social services coordinate with CWEL's from the school of origin and the potential receiving school district to be a part of the BID process. CWEL's at the school of origin should designate a representative who knows the child/youth to provide pertinent educational and social/emotional considerations for the student.

### **What should I do if a foster parent comes to enroll a student and a Best Interest Determination has not happened?**

If the school is not aware of whether or not the county child welfare department held a best interest meeting, the CWEL should: 1) call the county department of human/social services to inquire about the best interest meeting, and 2) if the CWEL does not get an acceptable answer within one business day, call CDE and CDHS for help contacting the county.

### **What information is factored into consideration at a BID?**

The information that is factored into the BID includes, but is not limited to: child/youth's wishes, child/youth's safety, how the school of origin can meet the academic and non-academic needs (including special education, extra-curricular activities, social, emotional needs, and meaningful relationships at the school of origin), how the decision impacts permanency goal(s), and time and distance traveled. Note: ESSA mandates that cost of transportation is **not** a permissible consideration in determining the child/youth's best interest.

### **Are there any special considerations for students in special education?**

Yes. The BID process does not negate any mandates under the Individuals with Disabilities Act (IDEA). School districts are responsible for executing the Individualized Education Plan (IEP) for students with disabilities. The BID process may determine the child needs to change schools to where the out-of-home placement is located; however, this determination does not automatically mean a child with an IEP will attend the school identified in the BID meeting. IEP teams will determine the appropriate way to meet the child's educational needs. Contact the State Coordinator for Foster Care Education at CDE for additional questions related to BIDs and IEPs.

### **Who makes the final determination in the BID?**

The county departments of human/social services, and ultimately the juvenile court have decision-making responsibilities regarding children and youth under their jurisdiction, including BIDs. While schools are a vital part in providing the necessary information to make the determination, schools do not have access to confidential details of the child welfare case. The county department must consider how school of attendance affects the child/youth's safety, well-being, and permanency.

### **Who coordinates transportation the child to remains in the school of origin?**

Under ESSA, LEAs and County departments of human/social services are to develop written transportation systems-level plans that define how transportation to the school of origin will be arranged, provided, and funded for the duration of time in foster care.

### **Are there sample BID and transportation documents?**

Yes. The Colorado Department of Human Services created several sample templates for County departments of human/social services and school districts to coordinate transitions and transfers for children and youth in foster care. The following link connects to the [Colorado Department of Human Services website](#). To access the sample forms and templates, click "Child Welfare Forms & Helpful Documents" then scroll down to the "educational success" folder.

### **If a child remains in the school of origin, who is responsible for transportation?**

**The basics:** Collaboration between counties and school districts is essential to providing children and youth school stability. Consistent with the Every Student Succeeds Act §1112(c)(5)(B), 22-32-138 C.R.S. requires county departments and school districts to “coordinate...to establish systems-level plans for how necessary transportation to the school of origin is provided, arranged, and funded for the duration of a child’s or youth’s time as a student in out-of-home placement, including the equitable allocation of costs.”

### **What makes Colorado different?**

\$2,750,328 was allocated specifically for transportation to school of origin for students in out-of-home placement. This amount came from a transportation needs assessment study CDHS completed in 2017 that estimated the cost to maintain students in out-of-home placement in their school of origin.

### **How does it work?**

- Districts and counties will bill CDHS for 100% of the transportation cost.
- Transportation funds from CDHS cover 80% of the transportation costs.
- Districts and counties split the remaining 20% equitably (typically 50/50 split)

### **Do children in out-of-home placement automatically get to attend their school of choice?**

- **No.** The federal and state laws clearly state transportation is to the school of origin.
- The intent is to maintain school stability whenever possible.
- If an educational decision maker wants a student in foster care to attend a school of choice, the process would be the same for them as any other student.

### **Is there a limit on time and distance traveled to school of origin?**

**No.** Caseworkers and other BID participants determine whether or not staying in the school of origin is appropriate for the child on a case-by-case basis. Every decision should be unique to the child’s situation, therefore there are no hard limits on time and distance traveled. For example, 5 year old traveling on a bus for an hour each way to and from school may not be appropriate; however, a high school aged student who has a one hour bus ride and is trying to finish their last semester of school to graduate could be appropriate. If a CWEL or Caseworker eludes to hard rules on this, contact the State Coordinator for Foster Care Education at CDE and/or the Educational Specialist at CDHS.

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<sup>i</sup> *Id.* at § 138(1)(g).