

**South Carolina Department of Social Services
Human Services Policy and Procedure Manual**

510.6 Educational Needs

CHAPTER 5, Foster Care & Permanency Planning

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PURPOSE:

The agency is committing to promoting child wellbeing through comprehensive, clear, and efficient procedures for meeting foster children's educational needs. The following section sets forth the policies and procedures related to supporting the child's educational goals and ensuring adequate services.

POLICY:

1. All children in foster care aged 5 to 17 must be enrolled as full-time elementary or secondary school students or must have completed secondary school. The term "elementary or secondary school student" means, with respect to a child, that the child is:
 - A. enrolled (or in the process of enrolling) in an institution which provides elementary or secondary education;
 - B. instructed in elementary or secondary education at home in accordance with S.C. Code Ann. § 59-65-40 et seq.;
 - C. in an independent study elementary or secondary education program which is administered by the local school or school district; or
 - D. incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information in the case plan of the child;
2. The agency shall create case plans that include the health and education records of the child, including the most recent information available regarding:
 - A. the names and addresses of the child's health and educational providers;
 - B. the child's grade level performance;
 - C. the child's school record;
 - D. a record of the child's immunizations;
 - E. the child's known medical problems;
 - F. the child's medications; and
 - G. Any other relevant health and education information concerning the child determined to be appropriate by the agency.

A copy of the child's records will be provided to the child's foster placement and shall be supplied to the child if the child exits foster care on or after the child's 18th birthday.

3. The agency shall seek to maintain all children in their schools of origin unless such placement is not in the best interests of the child. If remaining in such school is not in the best interests of the child, the agency will work with the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child being provided to the school.

PROCEDURES:

Education and Health Passport

- A. The Foster Care/IFCCS Worker shall gather all necessary information for completion of the [DSS Form 30245: Education and Health Passport](#) upon the child's entry into foster care (refer to [Section 510.1](#)).
- B. The worker shall provide a copy of the passport to all foster placements, who shall update the document as needed.
- C. The Foster Care/IFCCS Worker shall review and update the document continuously, but at least every three months.
 - I. In reviewing and updating the document, the worker shall confirm that the services listed are being delivered.
 - II. The worker shall update the document as soon as possible after an important medical or educational event occurs (e.g., a new IEP is put in place or the child changes schools).
- D. The worker shall confirm that an updated passport moves with the child from placement to placement.
- E. When a youth age 18 or older leaves foster care, the worker shall provide the youth with an up-to-date copy of the passport, along with other important documents (refer to [Section 560: Termination of Foster Care Services](#)).

Assessing& Managing Educational Needs

1. The Foster Care/IFCCS Worker shall gather all education records prior to completing the Education and Health Passport, and shall assess and address needs on an ongoing basis.
 - a. Information to be gathered for the assessment of the child's educational needs include:
 - i. the child's attendance record;
 - ii. the child's achievement and/or grades;
 - iii. the progress of actions and services (e.g., academic assistance, therapeutic interventions, disciplinary records) in meeting the child's educational needs;
 - iv. the appropriateness of the child's current educational setting;
 - v. information regarding any previous dispute resolution regarding the provision of education;
 - vi. participation in any extracurricular activities; and

- vii. The child's prior and current educational stability.
- b. The worker shall utilize multiple sources for gathering information, including the child, parents, foster care provider, child's therapist, if applicable, and direct contact with school personnel.
- c. Examples of services provided to address identified educational needs include, but are not limited to:
 - i. advocacy on the part of foster parents and the caseworker;
 - ii. ensuring that the child receives special education classes, when needed;
 - iii. making provisions for the child to receive tutoring or educational mentoring (if needed funding is available); and/or
 - iv. Arranging for the child to be enrolled in early intervention preschool classes, such as Head Start.
- d. If the child has an Individual Education Plan (IEP) or 504 plan, the worker shall amend the child's case plan to reflect the goals and services contained in the IEP or 504 plan.

2. **School Attendance**

1. The worker shall confirm that all children aged 5 to 17 are **attending elementary or secondary school on a full-time basis**, unless a child (1) has graduated or (2) he or she is incapable of attending due to a documented medical condition.
 - a. The basis for the child not being in school must be clearly documented in the family story and supporting documentation from medical records must be filed in the child's case file and Education and Health Passport.
 - b. If any school-age child is not attending elementary or secondary school full time, the worker shall notify the State IV-E Coordinator.
 - c. For home-schooled children, see Special Considerations below.

3. **School Stability**

1. If a placement change must be made, the worker shall make reasonable efforts to **maintain the child in the same school**.
 - a. The worker must document all efforts that were made to prevent the child from changing schools.
 - b. If the decision is made for the child to change schools, the worker shall discuss the change of school with the child and arrange for prompt transfer to the new school. The worker shall immediately enroll the child in the appropriate school and shall confirm (1) that the school requests

- the child's records within two days and (2) that the child's former school transfers such records within two days of the request.
- c. If a school change is made, the worker shall formulate an educational stability plan.
 - i. The plan shall include how the worker will determine the appropriate educational setting needed by the child and how the worker will explore options, such as arranging for reasonable transportation so that changing schools is not necessary unless there are safety concerns for the child or a change in school is in the child's best interest.
 - ii. The educational stability plan shall also include actions to address the child who is not attending elementary or secondary school as required by state law unless the child is incapable of attending school due to a documented medical condition.
 - d. Issues associated with the child's educational needs, including educational stability, shall be addressed in the education domain of the child's case plan. Educational information shall also be documented in applicable tabs in CAPSS and the [DSS Form 30245: Education and Health Passport](#).

4. **Children with Special Needs**

1. The public school system considers a child to be entitled to special education services when a child aged 3 to 21 (1) has a qualifying disability that (2) interferes with the child's daily life such that special education or related services are required.
 - a. A qualifying disability can include: mental retardation, hearing impairment (including deafness), speech or language impairment, visual impairment (including blindness), serious emotional disturbances, orthopedic impairments, autism, traumatic brain injury, other health impairments, and specific learning disabilities.
 - b. If a child is having either academic or behavioral difficulties in school, the child may have a disability that is not obvious or readily apparent.
 - c. In order for a child to receive services from the school, the child must be assessed for eligibility.
2. At the time of entry into foster care, the worker shall inquire with the biological parent(s) or foster child about whether the child attends or has ever received special education services or had an IEP or 504 Plan.

3. If the information gathered at the outset of the case indicates that a child is or may be eligible for special education services, the worker shall immediately request a screening from the school district to determine if the child is eligible for services. A screening will determine if a follow-up assessment is necessary.
 - a. The worker shall provide necessary information, complete any paperwork, attend any meetings, and follow up as necessary with the school district during the screening and assessment process.
 - b. The worker shall approve an evaluation of the child if the screening suggests that the child may have a disability. An evaluation must assess all areas related to the disability including, if appropriate, his or her health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
 - c. The school district will complete an evaluation within 45 days of the agency/parent's consent.
 - d. If a child is from another school district and had an evaluation that confirmed a disability, the school district to which one is currently applying to have the option to conduct another evaluation or accept the previous evaluation.
 - e. If the evaluation determines that a child is not eligible for services, the worker may appeal the decision through due process and/or to request an independent evaluation at public expense if he or she feels that the initial evaluation was inappropriate. The worker shall contact the Special Education Coordinator at the local school district for more information.
 - f. The worker shall notify the biological parent, foster parent, and Guardian *ad Litem* of the results of the screening/evaluation as soon as possible and inform them of any additional meetings regarding the resulting IEP or 504 plan.
4. An IEP meeting must be held within 30 days of the determination of eligibility. The purpose of the meeting is to determine the child's goals and objectives, as well as the least restrictive environment in which a free and appropriate education can be provided.
 - a. A school district is only required to provide seven calendar days advance notice of an IEP meeting (unless it is an expedited meeting, in such circumstances only two business days' notice is required). The worker shall confirm that other interested parties (foster parents, GAL, biological parents, etc.) are informed that they may receive very short notice of the IEP meeting. If the scheduled time is not convenient, the meeting may be rescheduled. However, arrangements may also be made for participants to contribute by phone, videoconference, and

other means.

- b. The worker shall notify the biological parents, the foster child, foster parents and Guardian *ad Litem* of the scheduled IEP as soon as possible. The foster child has the right to participate in the meeting if the child is 14 years or older, if the child has expressed an interest in attending, or if attendance would be in his or her best interests.
- c. The worker shall attend, participate, and assist with the IEP meeting. The worker shall forward necessary information to the IEP team that addresses the child's needs and shall maintain confidentiality where appropriate. The worker shall encourage the child's placement to attend.
- d. The worker shall coordinate with the school district to ensure that services to the child are provided within 30 days of the evaluation.
5. The worker shall forward copies of the IEP to the parent, foster parents, and Guardian *ad Litem*.
6. The worker shall request that the school district appoint a surrogate parent for the child in the following circumstances:
 - a. the child's birth parents or guardian retain educational decision-making authority but cannot be located;
 - b. the child's birth parents or guardian do not have educational decision-making authority and the child's foster parent either (1) does not have an ongoing, long-term parental relationship or (2) is unwilling to represent the child's educational interests;
 - c. The child's birth parents or guardian do not have educational decision-making authority and the child is placed in a group care setting.
7. The worker shall communicate with a representative from the child's school on an ongoing basis to determine the appropriateness of the child's special education services. The worker shall attend all annual and otherwise scheduled IEP meetings and shall request a meeting of the IEP team when needed.
 - a. In following up with the child's services, the worker shall confirm that the services are appropriate for the child's needs and level of functioning.
 - b. The worker shall also confirm that the child remains in the least restrictive setting possible and shall confirm that the school is providing all possible services in maintaining the child in the school environment.
 - c. The worker shall confirm that any behavioral needs are addressed in the IEP and that a behavior intervention plan (BIP) is in place when

needed to minimize the removal of the child from the learning environment.

8. The worker shall revise the child's case plan to reflect the goals of the IEP, particularly the goals that address transition services. Further, the worker shall document all contacts and meetings in CAPSS dictation.

Special Considerations:

1. Home-Schooling by the Foster Family

- a. Upon receiving a request by a foster or pre-adoptive family to home-school the child, the worker shall:
 - i. request a written justification from the foster parent explaining what educational needs will be met by home-schooling that cannot be met by the public school;
 - ii. request a written description of how special education services will be delivered if the child has an IEP or accommodations made if the child has a 504 plan;
 - iii. request a written letter of recommendation from the child's teacher;
 - iv. request documentation verifying that the foster parent has a high school diploma or GED; and
 - v. Upon receipt of the above documents, submit the request to the Child Welfare Director for agency approval.
- b. The Child Welfare Director shall approve the request after an individualized determination that home-schooling represents the optimal educational experience for the child.
- c. Upon receiving approval of the request, the worker shall:
 - i. coordinate with the foster parent to obtain school district approval through one of the following ways;
 - a. receiving approval of the foster parent's in-home curriculum and having the foster parent sign a waiver of liability for the school district;
 - b. demonstrating the foster parent's bona fide membership and compliance with the South Carolina Association of Independent Home Schools; or
 - c. demonstrating the foster parent's bona fide membership and compliance with an association for home schools with no fewer than 50 members that meets state home-schooling requirements;

- a. put in place a plan for regular monitoring of the child's safety in the home-schooling environment;
- b. Continually ensure that the foster parent is in compliance with state home-schooling requirements as described in S.C. Code Ann. 59-65-40.

2. Educational Decision-Making Authority for Disabled Youth Age 18 or Older

- a. Upon a disabled youth's 18th birthday, all educational rights shall automatically transfer to the youth. The youth has the right to choose an adult to support him or her in making education decisions, and may delegate his or her rights to another adult through a power of attorney or an appropriate SC Department of Education form.
- b. If a student is unable to communicate their wishes, interests, or preferences, the worker shall request that a physician, nurse practitioner, physician's assistant, psychologist, or psychiatrist certify this inability in writing. The worker shall provide the medical examination to the school district and shall request that the school district appoint an educational representative to act on the student's behalf.
 - a. The student may choose their representative and may challenge the selection of a representative by the district.
 - b. The representative shall have the authority to consent to educational services and participate in the development of the educational program but shall not have the authority to remove the child from educational services.
 - c. The representative shall make educational decisions based on the student's preferences, when possible. When this is not possible, the representative shall make decisions based on the student's best interests.
 - d. The representative's duties shall end:
 - a. when the district receives a challenge to the representative's certification;
 - b. when the student is no longer eligible for special education services; or
 - c. When the Probate Court issues a guardianship order which terminates the authority of the educational representative.
- c. An individual or the agency may also petition the Probate Court to seek guardianship of the youth, which would bestow the petitioner with the authority to make educational decisions for the youth.

DOCUMENTATION:

- ♦ Contacts and attempted contacts with child and family
- ♦ Contacts with educational professionals
- ♦ Records contained in the Education and Health Passport
- ♦ Copy of IEP(s) and 504 plan(s)
- ♦ Efforts to maintain a child in his or her school of origin
- ♦ If applicable, home-schooling documents

COLLABORATION:

- ♦ Foster Care/IFCCS Worker
- ♦ Guardian *ad Litem*
- ♦ Birth family and other kin
- ♦ Foster Placement
- ♦ School Staff

REFERENCES:**Legal Citations:**

42 U.S.C.A. § 671(a) (30): school enrollment

42 U.S.C.A. § 675(1): school stability, health and education records

42 U.S.C.A. § 675(5): fostering connections, review of health/education record

42 U.S.C.A. § 11432(g) (3) & 11434a (2): McKinney-Vento Act

S.C. Code Ann. § 59-33-310 et seq.: educational representatives

S.C. Code Ann. § 59-38-10: Educational Bill of Rights for Children in Foster Care

S.C. Code Ann. § 59-65-10 et seq.: compulsory attendance and home-schooling

S.C. Code Reg. § 43-243: special education, surrogate parent

Forms:

[DSS Form 30245: Education and Health Passport](#)

Practice Guidance:**REVISION COMMENTS:**