



PRE K-12
AND BEYOND

CALIFORNIA FOSTER YOUTH EDUCATION
TASK FORCE



Supporting School Stability for Youth in Foster Care

During Virtual Learning and the Transition Back to In-Person Instruction

DECEMBER 2020



School Stability During Virtual Learning: Purpose of this Guide

Youth in foster care have the right to remain in their school of origin following a home placement change. This right was created because school stability has been shown to have a profound impact on overall educational and life outcomes. One third of foster youth change schools each year, losing an average of four to six months of learning with each move.¹ In today's climate, school stability is more important than ever as youth are navigating the additional stressors of the pandemic and technological challenges on top of the typical trauma and struggles faced when school changes occur.

Virtual instruction, a key component of the "distance learning" that is being offered by most local education agencies throughout the state, offers a unique opportunity for youth to remain in their school of origin by eliminating the transportation challenges that are often a significant barrier to school stability after a home placement change.² While there are significant considerations and challenges that must be addressed to ensure that youth can exercise their school stability right in these challenging times, it is essential to do so.

This guide is intended to help child welfare workers, probation officers, county offices of education, local education agencies, youth, education rights holders and caregivers as they navigate school of origin decisions during these challenging times: choosing between options that may include regular in-person instruction, different forms of distance learning, hybrid learning and/or small group in-person instruction. *For the broad, general discussion of School of Origin rights, responsibilities and best practices outside of the additional considerations related to virtual instruction, please see the [California Foster Youth Education Task Force Fact Sheet on "Educational Rights and School Stability"](#) and the [Foster Youth Education Toolkit](#).

¹ Wiegmann, W., Putnam-Hornstein, E., Barrat, V. X., Magruder, J. & Needell, B. (2014). The Invisible Achievement Gap Part 2: *How the Foster Care Experiences of California Public School Students Are Associated with Their Education Outcomes*; Mehana M, Reynolds AJ. School mobility and achievement: A meta-analysis. *Children and Youth Services Review*. 2004;26:93-119. doi:10.1016/j.chilyouth.2003.11.004.

² Local education agencies throughout the state have created their own versions of distance learning, which may or may not include virtual instruction. For more details on distance learning and the options it may include, please see the [California Department of Education's resources](#).



Making the School of Origin Decision

Who Makes the School of Origin Decision?

Foster youth have a right to remain in their school of origin unless their education rights holder (ERH) determines it is in their best interest to change schools. The school of origin is the default placement, and the ERH is the final decision-maker. (Cal. Educ. Code §§ 48853, 48853.5, and 48859)

Child Welfare Social Workers and Probation Officers (CSW/PO), Attorneys for Youth, Attorneys for Parents, Judges, AB 490 Foster Youth Liaisons, and youth themselves all serve important advisory roles in this process and participate in decisions (e.g., home placement, transportation) that deeply impact school stability and the right of a youth to attend their school of origin; however, it is ultimately the ERH who makes the decision. (Cal. Educ. Code § 48853.5)

Key Considerations for Best Interest Determination (BID) Meetings When Either the School of Origin or School Connected to the Youth's New Residence³ is Operating Virtually⁴



Available Supports/Services:

What additional supports and services is the student currently accessing from their school of origin? Are these supports also available at the school connected to the youth's new residence? Does the new school connected to the youth's new residence offer different, additional supports? For example, the amount of daily instructional time, access to synchronous (live two-way communication/instruction with teacher) vs. asynchronous (watching videos, reading, completing worksheets or other assignments independently) instructional minutes, access to teachers and support staff in a way that supports youth learning and family access (e.g., Spanish speakers for monolingual parents), tutoring, enrichment activities, social activities, etc. If the youth has special education needs, how is the student accessing support in their school of origin and how are those services offered in the school connected to the youth's new residence (e.g., are all of their IEP

³ In this document, "school connected to the youth's new residence" indicates the school that the youth would be assigned to, based on the address of their new home placement (or planned new home placement). This includes local comprehensive schools, as well as potential special education placements depending on the youth's educational needs.

⁴ The normal BID process should be followed if both schools are operating in-person.

services and minutes being provided, are any necessary services being provided in-person and/or in a small group cohort)? *Consider whether members of the youth's IEP team, or representatives from the Special Education Local Plan Area for the school connected to the new residence should be present to fully discuss the special education needs and offerings.



Different Instructional Options:

If one of the local education agencies is operating with virtual instruction, and the other offers in-person instruction, which better suits the youth's current best interest? Consider: potential health concerns, current performance in virtual/in-person instruction (both social-emotional and academic), different course options available at each local education agency (especially as they relate to the youth's academic interests and goals).



Anticipated Length/Permanency of Placement:

Temporary: If youth is going to be in placement for a short time (for example, a Short Term Residential Therapeutic Program (STRTP) where the placement is meant to last no more than six months, or an Emergency Placement which is meant to last for an even shorter time period), that would indicate a potential preference for remaining in the school of origin, regardless of virtual vs. in-person instruction being offered at either the school of origin or school connected to the youth's new residence, to avoid unnecessary disruption.

Permanent: If the youth is moving to a placement that is more likely to be permanent (for example, returning to a parent, or placed with a relative with a long-term plan of adoption), that would indicate a potential reason to consider changing to the school connected to the youth's new residence.

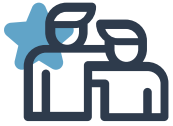


Transportation:

Focus on School Stability Opportunity During Remote Learning: Given that most schools are continuing to offer only remote learning, and given the difficulty for any youth making new connections with teachers and peers in a remote setting, significant additional weight should be given to keep youth in their school of origin, at least in the short term while schools remain in remote learning. Future transportation challenges (for example, extreme distance between schools) should not prevent a youth from continuing virtual instruction at the school of origin in the short term. The ERH's best interest decision should focus on what is best for the youth in this moment, during remote learning, with the understanding that the best interest determination may be reevaluated and changed by the ERH at any time, including when in-person learning options are offered by the school of origin and/or the school of residence.

Planning for Future Needs: It is highly recommended that local Education Agencies of origin in coordination with child welfare agencies and probation departments develop and implement a plan for the anticipated shift to in-person instruction that would require transportation, including developing potential transportation options and determining funding sources.⁵

³ For more general information on school of origin transportation, please see the California Department of Education guidance [available here](#).



Youth Preference:

Youth preference is an essential factor in any BID discussion. Now, as youth are going through even more intense levels of stress and disruption of their lives than normal, it is even more important to listen to and respect their perspective and preferences.



BID for Transition to In-Person or Virtual Instruction at the School of Origin:

If there is a significant shift in instructional delivery at the school of origin and/or school connected with the youth's new residence, the ERH and both schools should consider whether a new BID meeting should be held to discuss the change in circumstance, how it relates to the youth's current needs and performance, what impact the change makes on transportation needs, and ultimately the ERH should determine if it is in the youth's best interest to remain in their school of origin or change schools to the school connected to the youth's new residence given the change in instructional options offered.

- **Transportation:** Address any new transportation needs created.
- **Potential for Additional Changes:** Consider the potential for a later shift back to virtual/in-person instruction as quarantine orders may change multiple times due to state and local public health orders and local education agency decisions. Factor this potential for further changes into the decision-making process by planning for the future, while also ensuring the youth's current best interests take precedence over any future potential needs.



Supporting Youth in Their Home Placement Once the School of Origin Decision Has Been Made

As counties navigate this crisis, those who support youth in foster care will encounter different combinations of school configurations when navigating between attendance at a school of origin and/or transitioning to a school connected to the youth's new residence, such as both potential schools being in virtual learning, both back to in-person learning, or one is in virtual learning and the other is in-person. The considerations below are included as concerns that the team should work together to consider and attempt to resolve, not as reasons to limit a youth's vital right to attend their school of origin (with the understanding that ERHs continue to be the final decision-maker around school of origin best interests, even when these circumstances and complications occur):

- **When both school of origin and school connected to the youth's new residence are in virtual learning, or when either is offering virtual learning:** The child welfare agency, probation agency, caregiver, education rights holder and youth (with input from the local education agency as appropriate/needed) must discuss and consider the additional supervision needs of the youth to ensure the youth has the support necessary to successfully access their virtual learning in the home. For example, consider if there are different timings/scheduling for youth in the same home attending different schools or on different schedules while attending the same school. Consider caregiver ability to support technology and connectivity access for the youth. Consider caregiver ability to provide a safe and comfortable learning space, free from distractions.
- **When both or either school of origin and/or school connected with the youth's new residence offer in-person learning:** The child welfare agency, probation agency, education rights holder and youth (with input from the local education agency as appropriate/needed) must, after resolving the normal challenges that always exist when considering school of origin, including arranging transportation coordination and shared responsibility with local education agency either pursuant to an existing Every Student Succeeds Act memorandum of understanding or through other arrangements, and managing different school schedules of youth in the same household, consider the health and safety risks for the youth and the household. Is the youth too young or do they have a disability that will make following face mask and social distancing requirements difficult for them? Do any members of the household have high

risk conditions (e.g., elderly caregivers, immunosuppressed foster siblings, etc.)? Do the health and safety precautions to be undertaken at the considered school adequately address these health concerns? What unique virus transmission risks do transportation to school of origin (or school connected with the youth's new residence) create (e.g., riding public transportation, riding school bus, riding in private car service)?

Roles and Responsibilities in Supporting Stability:

All Agencies and Caregivers (including STRTPs): ensure appropriate coordination occurs between the youth, ERH, caregiver, both local education agencies (residence and origin), county office of education, and Child Welfare/Probation agencies to help youth access needed technologies/devices (even after a home placement change), ensure caregiver receives the required support to learn the technology and education programs necessary to support the youth (even if transfers occur mid-year), IT support when technologies are not functioning correctly, connectivity, learning and accommodative materials (e.g., new books or manipulatives) and instruction/services. While the foster youth liaison and the ERH are the only ones who must participate in the BID decision process, CSW/PO participation can be helpful in the BID discussion so that there can be coordination around how needed services and supports will be administered. For example, if appropriate, and representatives from the local education agency and the ERH are present, BIDs could happen as part of a Child and Family Team meeting. Note that if the ERH (and in most cases the local education agency representative) are not present, the BID cannot happen.

Child Welfare and Probation Workers: ensure home placement decisions take school of origin into account; new home placements have the resources and strategies necessary to provide the required childcare, supervision, and/or educational and technological support for youth to access their education services; and new caregivers receive the supports necessary to address additional stressors and social-emotional struggles required when providing constant care; the education section of the youth's case plan reflects the youth's educational needs, and how they are being addressed by each agency.

County Offices of Education Foster Youth Services Coordinating Program: provides guidance, training, and materials to support local education agencies in their efforts and, to the extent possible, utilizes this opportunity to increase school stability overall for youth in foster care.

Both Local Education Agency of Origin and Local Education Agency Connected to the Youth's New Residence: should coordinate to ensure each provides appropriate notice to the ERH, youth, and caregiver of potential plans for returning to in-person instruction; transportation to school of origin is arranged when necessary; the graduation needs of high school youth are addressed, including timely eligibility determination for AB 167/216 graduation following a school change and post-secondary transition planning including FAFSA and college applications.

STRTPs/Resource Families: coordinate (with child welfare/probation support) childcare throughout the school day, basic educational support, managing different learning schedules of different youth in the same home/placement, and providing a safe, quiet learning environment including confidential/private space for necessary services, etc.



Dispute Resolution

If there is a dispute between the ERH and the caregiver, CSW/PO, or local education agencies about what is in the youth's best interest based upon one of the concerns listed above, or any other concern, the youth has the right to remain in the school of origin pending the resolution of the dispute. Best efforts should be made on the parts of the local education agencies, CSW/PO, and County Office of Education to address the concerns, for example, by providing technology, connectivity, and additional caregiving support as needed.

Health concerns should be thoughtfully and carefully discussed and resolved among all team members, including the youth, considering the needs of all participants (e.g., biological parent education rights holders who may hold strong views related to the health and education of their child, caregivers with significant health concerns, youth who feel a strong need to return to in-person to receive quality education services and to reestablish peer connections).

Under AB 2083, once the local resolution process has been exhausted, a request may be made to the Children and Youth System of Care State Technical Assistance Team for support.⁶ If the dispute cannot be resolved, the matter may be brought before the court where the judge may determine whether the youth will change schools, an alternative home placement must be found, other services/supports in the home are needed, and/or whether a new ERH may need to be appointed. Note, that due to current public health concerns, some courts may not be fully operational and special arrangements may need to be made to schedule a hearing and obtain these orders. (Cal. Educ. Code § 48853.5).

If there is a conflict with one of the schools or local education agencies regarding the youth's right to attend their school of origin, a Uniform Complaint Procedures (UCP) complaint may be filed with the California Department of Education (CDE). More information on how to file these complaints can be found on the **CDE's website**. As with the other dispute options, the youth has the right to remain in their school of origin while the complaint is being reviewed.

For more information about this guide or the information contained in it, please contact Alaina Moonves-Leb, Alliance for Children's Rights, amoonves@alliancecr.org and Daniel Senter, National Center for Youth Law, dsenter@youthlaw.org.

For further information and resources in your local area, consider reaching out to your Local Education Area's AB 490 Liaison (find them [here](#)) and/or your local FYSCP contact (find them [here](#)).

⁶ More information about how and when to make requests for this Technical Assistance can be found [here](#).