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PLACEMENT TO ACHIEVE PERMANENCY

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PLACEMENT TO ACHIEVE PERMANENCY

6.1 Introduction

Permanency planning with the child and family focuses on preserving the family, reunifying the family, or achieving permanency for the child with another family. It involves facilitating lifelong connections for the child with siblings, extended family, and other significant adults. It begins with the child and family's first contact with the children's services system and continues with a sense of urgency until permanency is achieved.

When a child cannot live safely with his family due to abuse, neglect, or seriously harmful behavior, the service worker shall actively seek a safe, stable, and nurturing family that maintains sibling and family connections and that is committed to meeting the child's needs, including educational, medical and behavioral health needs. For each child placed outside of the home, the service worker shall promote and preserve sibling, relative, significant non-relative, and community connections consistent with the child's best interests.

Placement stability is not permanency. Permanency is only achieved when the child leaves foster care to live with a permanent family. The child is either:

- Reunified with his family with custody transferred back to the parents;
- Adopted by a relative or non-relative; or
- Living with a relative who obtains custody of the child.

After achieving permanency, child and family supports should be continued until they are no longer necessary to ensure that the child is safe and family connections are stable.

6.2 Framework

When out-of-home placements are necessary to meet the best interests of the child, local departments of social services (LDSS) shall meet federal and state legal requirements and should use sound practice principles to achieve desired outcomes and to guide decision-making in pursuing permanency for the child.

6.2.1 Practice principles

Four fundamental principles in Virginia's Children's Services System Practice Model guide practice:

First, we believe that all children and communities deserve to be safe.

- Safety comes first. Every child has the right to live in a safe home, attend a safe school, and live in a safe community. Ensuring safety requires a collaborative effort among family, agency staff, and the community.
- We value family strengths, perspectives, goals, and plans as central to creating and maintaining child safety, and recognize that removal from home is not the only way to ensure child or community safety.
- In our response to safety and risk concerns, we reach factually supported conclusions in a timely and thorough manner.
- Participation of parents, children, extended family, and community stakeholders is a necessary component in assuring safety.
- We separate caregivers who present a threat to safety from children in need of protection. When court action is necessary to make a child safe, we use our authority with respect and sensitivity.

Second, we believe that children do best when raised in families.

- Children should be raised by their families whenever possible.
- Keeping children and families together and preventing entry into any type of out of home placement is the best possible use of resources.
- When children cannot live safely with their families, the first consideration for placement will be with kinship connections capable of providing a safe and nurturing home. We value the resources within extended family networks and are committed to seeking them out.

- When placement outside the extended family is necessary, we encourage healthy social development by supporting placements that promote family, sibling and community connections.
- Placements in non-family settings should be temporary, should focus on individual children's needs, and should prepare them for return to family and community life.

Third, we believe in family, child, and youth-driven practice.

- Children and families will be treated with dignity and respect. The voices of children, youth, and parents are heard, valued, and considered in the decision making regarding safety, permanency, well-being as well as in service and educational planning and in placement decisions.
- Family members are the experts about their own families. It is our responsibility to understand children, youth, and families within the context of their own family rules, traditions, history, and culture.
- Children have a right to connections with their biological family and other caring adults with whom they have developed emotional ties.
- We engage families in a deliberate manner. Through collaboration with families, we develop and implement creative, individual solutions that build on their strengths to meet their needs.

Fourth, we believe that all children and youth need and deserve a permanent family.

- Lifelong family connections are crucial for children and adults. It is our responsibility to promote and preserve kinship, sibling, and community connections for each child. We value past, present, and future relationships that consider the child's hopes and wishes.
- Permanency is best achieved through a legal relationship such as parental custody, adoption, kinship care, or guardianship. Placement stability is not permanency.

6.2.2 Legal excerpts

The legal framework and specific requirements for placing children are delineated in federal and state law. Key excerpts are provided below. See the law for complete language by clicking on the citation.

6.2.2.1 General provisions for placing children

- **LDSS right to accept children for placement**

(§ [63.2-900 A](#)). Pursuant to § [63.2-319](#), a local board shall have the right to accept for placement in suitable family homes, children's residential facilities or independent living arrangements, subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, such persons under 18 years of age as may be entrusted to it by the parent, parents or guardian, committed by any court of competent jurisdiction, or placed through an agreement between it and the parent, parents or guardians where legal custody remains with the parent, parents, or guardians.

- **Placement agreement requirements**

(§ [63.2-902](#)). Every local board and licensed child-placing agency shall, with respect to each child placed by it in a foster home or children's residential facility, enter into a written agreement contained in an approved foster care policy with the head of such home or facility, which agreement shall provide that the authorized representatives of the local board or agency shall have access at all times to such child and to the home or facility, and that the head of the home or facility will release custody of the child so placed to the authorized representatives of the local board or agency whenever, in the opinion of the local board or agency, or in the opinion of the Commissioner, it is in the best interests of the child.

- **Cannot deny or delay placement due to race, color, or national origin**

([Federal Multiethnic Placement Act of 1994 and Interethnic Adoption Provisions of 1996 \(MEPA-IEP\)](#)). A state or other entity covered by MEPA-IEP may not delay or deny the placement of a child for adoption or into foster care on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved.

- **Reasonable efforts to place siblings together; or if separated, frequent visitation or communication**

(§ [63.2-900.2](#)). All reasonable steps shall be taken to place siblings ... together in the same foster home.

Where siblings are placed in separate foster homes, the local department, child-placing agency, or public agency shall develop a plan to encourage frequent and regular visitation or communication between the siblings. The visitation or communication plan shall take into account the wishes of the child, and shall specify the frequency of visitation or communication, identify the party responsible for encouraging that visits or communication occur, and state any other requirements or restrictions related to such visitation or communication as may be determined necessary by the local department, child-placing agency, or public agency.

([Social Security Act, Title IV, § 471, \(a\) \(31\) \[42 USC 671\]](#)). ..reasonable efforts shall be made—

(A) to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and

(B) in the case of siblings removed from their home who are not so jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless that State documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings;..

6.2.2.2 Visitation and communication with family

- **Allowing reasonable visitation via court order at the preliminary removal hearing**

(§ [16.1-252](#)).F. If the court determines that pursuant to subsection E hereof the removal of the child is proper, the court shall:

2. Order that reasonable visitation be allowed between the child and his parents, guardian, legal custodian or other person standing in loco parentis, and between the child and his siblings, if such visitation would not endanger the child's life or health;”

- **Including visitation and other contacts in foster care plan**

(§ [16.1-281](#)). B. The foster care plan shall describe in writing ... (iii) the visitation and other contacts which will be permitted between the child and his parents and other prior custodians, and between the child and his siblings;

- **Planning visitation and communication between siblings**

(§ [63.2-900.2](#)). Where siblings are placed in separate foster homes, the LDSS, child-placing agency, or public agency shall develop a plan to encourage frequent and regular visitation or communication between the siblings. The visitation or communication plan shall take into account the wishes of the child, and shall specify the frequency of visitation or communication, identify the party responsible for encouraging that visits or communication occur, and state any other requirements or restrictions related to such visitation or communication as may be determined necessary by the LDSS, child-placing agency, or public agency.

- **Visitation of child placed in foster care**

(§ [63.2-912](#)). The circuit courts and juvenile and domestic relations district courts shall have the authority to grant visitation rights to the natural parents, siblings, and grandparents of any child entrusted or committed to foster care if the court finds (i) that the parent, sibling, or grandparent had an ongoing relationship with the child prior to his being placed in foster care and (ii) it is in the best interests of the child that the relationship continue. The order of the court committing the child to foster care shall state the nature and extent of any visitation rights granted as provided in this section.

6.2.2.3 Seeking and notifying relatives of placement options

- **Identify and notify relatives of child's removal from home**

([Social Security Act, Title IV, § 471 \(a\) \(29\) \[42 USC 671\]](#))...within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence, that—.... “(B) explains the options the relative has under Federal, State, and local law to participate in the care and placement of the child, ..

- **Seek relatives first as placement option**

(§ [63.2-900 A](#)). The local board shall first seek out kinship care options to keep children out of foster care and as a placement option for those children in foster care, if it is in the child's best interest, pursuant to [§ 63.2-900.1](#).

- **Determine whether child has relative to be kinship foster parent**

(§ [63.2-900.1 A](#)). The local board shall, in accordance with regulations adopted by the Board, determine whether the child has a relative who is eligible to become a kinship foster parent.

6.2.2.4 Pursuing permanent placement options

- **Child's health and safety is paramount concern; reasonable efforts to preserve and reunify families**

(§ [16.1-281 B](#)). ...If consistent with the child's health and safety, the [foster care] plan shall be designed to support reasonable efforts which lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan. The child's health and safety shall be the paramount concern of the court and the agency throughout the placement, case planning, service provision and review process.

([The Adoption and Safe Families Act of 1997 \(PL 105-89\)](#)). (A) in determining reasonable efforts to be made with respect to a child...and in making such reasonable efforts, the child's health and safety shall be the paramount concern;

(B)...reasonable efforts shall be made to preserve and reunify families—(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and (ii) to make it possible for a child to safely return to the child's home;

- **If reunification not appropriate, reasonable timely efforts to finalize permanent placement; place child for adoption or with legal guardian**

([The Adoption and Safe Families Act of 1997 \(PL 105-89\)](#)). (C) if continuation of reasonable efforts of the type described in subparagraph (B) is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child;....

(F) reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts of the type described in subparagraph (B);.

- **If cannot return child to prior family, plan to place child with relative with subsequent transfer of custody or in adoptive home, or if neither feasible, permanent foster care.**

(§ [16.1-281 B](#)). The foster care plan shall describe in writing (i) the programs, care, services and other support which will be offered to the child and his parents and other prior custodians; (ii) the participation and conduct which will be sought from the child's parents and other prior custodians; (iii) the visitation and other contacts which will be permitted between the child and his parents and other prior custodians, and between the child and his siblings; (iv) the nature of the placement or placements which will be provided for the child; *and* (v) for children 14 years of age and older, the child's needs and goals in the areas of counseling, education, housing, employment, and money management skills development, along with specific independent living services that will be provided to the child to help him reach these goals; and (vi) where appropriate for children age 16 or over,. In cases in which a foster care plan approved prior to July 1, 2011, identifies independent living as the goal for the child, and in cases involving children admitted to the United States as refugees or asylees who are 16 years of age or older and for whom the goal is independent living, the plan shall also describe the programs and services which will help the child prepare for the transition from foster care to independent living. If consistent with the child's health and safety, the plan shall be designed to support reasonable efforts which lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan. The child's health and safety shall be the paramount concern of the court and the agency throughout the placement, case planning, service provision and review process.

- **Provide child welfare services to prevent separating children from families, restore them with families, place in adoptive homes, and assure adequate care**

(§ [63.2-319](#)). Each local board shall provide, either directly or through the purchase of services subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, any or all child welfare services herein described when such services are not available through other agencies serving residents in the locality. ...

3. Preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving these problems and preventing the breakup of the family where preventing the removal of a child is desirable and possible;
4. Restoring to their families children who have been removed by providing services to the families and children;
5. Placing children in suitable adoptive homes in cases where restoration to the biological family is not possible or appropriate; and
6. Assuring adequate care of children away from their homes in cases where they cannot be returned home or placed for adoption.

- **Provide services that achieve permanent placements as quickly as practicable**

(§ [63.2-900 A](#)). The Board shall adopt regulations for the provision of foster care services by local boards, which shall be directed toward the prevention of unnecessary foster care placements and towards the immediate care of and permanent planning for children in the custody of or placed by local boards and that shall achieve, as quickly as practicable, permanent placements for such children....

- **Document reasonable efforts to place child in timely manner and to finalize permanent placement**

(§ [16.1-281 C2](#)). Any order entered at the conclusion of the hearing that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to § [16.1-277.01](#), [16.1-277.02](#), [16.1-278.3](#), or [16.1-283](#); by placing the child in permanent foster care pursuant to clause (iv) of subsection A of § [16.1-282.1](#); or in cases in which independent living was identified as the goal for a child in a foster care plan approved prior to July 1, 2011 or in which a child has been admitted to the United States as a refugee or asylee and is over 16 years of age and independent living has been identified as the permanency goal for the child, by directing the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of 16 years, pursuant to clause (v) of subdivision A of § [16.1-282.1](#) shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child.

6.2.2.5 Using approved and licensed providers

- **VDSS approved provider families**

([22 VAC 40-211-20](#)). When applicants are approved in accordance with these standards, they are approved as foster families, adoptive families, resource families, or respite families.E. Emergency approval of a provider may be granted in accordance with guidance developed by the department....

- **Funding based on licensure status of foster family home, group home, or residential facility**

- **Title IV-E**

([Social Security Act, Title IV, § 471 \(a\) \(10\) \[42 USC 671\]](#)). (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—... (10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title, and provides that a waiver of any such standard may be made only on a case-by-case basis for non-safety standards (as determined by the State) in relative foster family homes for specific children in care.

- **Comprehensive Services Act**

([§ 2.2-5211.1](#)) any family assessment and planning team or any other local entity placing children through the Comprehensive Services Act (CSA), the following restrictions shall control:

1. In the event that any group home or other residential facility in which CSA children reside has its licensure status lowered to provisional as a result of multiple health and safety or human rights violations, all children placed through CSA in such facility shall be assessed as to whether it is in the best interests of each child placed to be removed from the facility and placed in a fully licensed facility and no additional CSA placements shall be made in the provisionally licensed facility until and unless the violations and deficiencies relating to health and safety or human rights

that caused the designation as provisional shall be completely remedied and full licensure status restored.

6.2.2.6 Placing children across jurisdictional lines

(§ [2.2-5211 2](#)). Prior to the placement of a child across jurisdictional lines, the family assessment and planning teams shall (i) explore all appropriate community services for the child, (ii) document that no appropriate placement is available in the locality, and (iii) report the rationale for the placement decision to the community policy and management team.

6.2.2.7 Placing children outside of Virginia

- **The Safe and Timely Interstate Placement of Foster Children Act of 2006**

([P.L.109-239](#)). To improve protections for children and to hold States accountable for the safe and timely placement of children across State lines...

- **Interstate Compact on the Placement of Children**

(§ [63.2-1000 et.seq.](#)). It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children

6.2.2.8 Providing intensive care coordination services for children in or at risk of residential care

(§ [2.2-2648 D22](#)). The Family Assessment and Planning Team “shall provide, in collaboration with the family, intensive care coordination services for children at risk of entering, or are placed in, residential care” (§ [2.2-5208 5](#)), “in accordance with the Community Policy and Management Team policies” (§ [2.2-5206 17](#)) that are “consistent with State Executive Council mandatory uniform guidelines.

6.2.2.9 Education requirements when placing child

- **Ensure educational stability for the child**

([Social Security Act, Title IV, § 475 \(1\) \(G\) \[42 USC 675\]](#)). (1) The term “case plan” means a written document which includes at least the following: G. A plan for ensuring the educational stability of the child while in foster care, including—

(i) assurances that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

(ii) (I) an assurance that the State agency has coordinated with appropriate local educational agencies ... to ensure that the child remains in the school in which the child is enrolled at the time of placement; or

(II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

- **The Child and Family Services Improvement and Innovation Act (P.L. 112-34)** in 2011 extended the two assurance requirements for educational stability above to "each" placement.

(§ [63.2-900.3](#)). When placing a child of school age in a foster care placement, as defined in § [63.2-100](#), the local social services agency making such placement shall, in writing, determine jointly with the local school division whether it is in the child's best interests to remain enrolled at the school in which he was enrolled prior to the most recent foster care placement, pursuant to § [22.1-3.4](#).

(§ [22.1-3.4.B](#)). The sending and receiving school divisions shall cooperate in facilitating the enrollment of any child placed in foster care across jurisdictional lines for the purpose of enhancing continuity of instruction. The child shall be allowed to continue to attend the school in which he was enrolled prior to the most recent foster care placement, upon the joint determination of the placing social services agency and the local school division that such attendance is in the best interest of the child.

For the purposes of this section:

"Receiving school division" means the school division in which the residence of the student's foster care placement is located.

"Sending school division" means the school division in which the student last attended school.

- **Notify new school of placement and obtain records or ensure compliance with enrollment requirements**

(§ [63.2-900 D](#)). Within 72 hours of placing a child of school age in a foster care placement, as defined in § [63.2-100](#), the local social services agency making such placement shall, in writing, (i) notify the principal of the school in which the student is to be enrolled and the superintendent of the relevant school division or his designee of such placement, and (ii) inform the principal of the status of the parental rights.

If the documents required for enrollment of the foster child pursuant to § [22.1-3.1](#), [22.1-270](#), or [22.1-271.2](#), are not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster child within 30 days after the child's enrollment.

- **Enrollment of certain children placed in foster care**

(§ [22.1-3.4 A](#)). Whenever a student has been placed in foster care by a local social services agency and the placing social services agency is unable to produce any of the documents required for enrollment pursuant to § [22.1-3.1](#), [22.1-270](#), or [22.1-271.2](#), the student shall immediately be enrolled; however, the person enrolling the student shall provide a written statement that, to the best of his knowledge, sets forth (i) the student's age (ii) compliance with the requirements of § [22.1-3.2](#), and (iii) that the student is in good health and is free from communicable or contagious disease.

6.2.3 Outcomes

Service workers shall strive to achieve the following two permanency outcomes required in the federal Child and Family Services Review, each with specific outcome measures:

Permanency Outcome 1: Children have permanency in their living situations.

- More children in foster care achieve permanency.
- Children achieve permanency with shorter lengths of stay.
- Increased timeliness to permanency.
- Fewer placement moves and disruptions.
- Fewer children in out of home care.
- More children placed in family based care.
- More children placed in relative foster homes.
- Fewer children placed in residential care.
- Fewer children re-enter out of home care.

Permanency Outcome 2: The continuity of family relationships and connections is preserved for children.

- More children in foster care placed in close proximity to families and communities.
- More children in foster care placed with their siblings.

6.3 Critical decisions in making placements

In making placement decisions to secure the most appropriate home for a child, whether an initial placement or change in placement, the service worker, in collaboration with key partners and members of the Family Partnership Meeting, shall:

- Ensure the child's health and safety is the paramount concern ([§ 16.1-281 B](#)).
- Take actions to minimize the trauma of separation, to build upon the strengths of the child and family, and to meet the child's special needs and best interests.
- Not delay or deny placement of a child in foster care on the basis of race, color, or national origin of the child or the foster or *resource* parents involved ([22 VAC 40-201-40 A](#); and Multiethnic Placement Act of 1994).
- Place the child in the least restrictive, most family-like setting that is committed to meeting the child's *best interests and* needs, including educational, medical and behavioral health needs ([22 VAC 40-201-40 A](#)).
- Place the child with all siblings who need placement unless joint placement is documented to be contrary to the safety or well-being of any of the siblings.
- When siblings are to be placed separately, plan frequent and regular visitation and communication between the siblings, taking into account the wishes and best interests of the child, and the safety and well-being of the siblings ([§ 63.2-900.2](#)) unless it is documented that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings. .
- Place the child in a fully approved or licensed placement, with the exception noted in [Section 4.7](#) for emergency placements.
- Design a placement that leads to returning the child to his or her parents or prior custodians within the shortest practicable time, consistent with the child's health and safety. If returning the child home is not reasonably likely within a practical period of time, place the child with a relative or in an adoptive home ([§ 16.1-281 B](#)).

- Place the child in a timely manner and pursue all necessary actions to finalize the permanent placement of the child (§ [16.1-281 C2](#)) as quickly as practicable (§ [63.2-900 A](#)).
- Seek out relatives first for placement (§ [63.2-900](#)) when the child cannot remain safely at home and determine whether any relatives are eligible to be an approved provider (§ [63.2-900.1 A](#)) and/or legal custodian.
- *Seek out resource parents for placement, so if reunification fails, the placement is the best available placement to provide permanency for the child* ([22 VAC 40-201-40 A](#)).
- Seek out non-relatives for placement and/or adoption when the child cannot remain safely at home and relatives are not appropriate for placement or assuming custody (§ [16.1-281 B](#)).
- Consider residential placements for short term temporary placement when the child requires crisis stabilization or intensive treatment that cannot be safely or effectively provided in a family setting. Begin immediately developing and implementing a plan for returning the child home safely, to a relative's home, or to a family-like setting at the earliest appropriate time consistent with the child's needs (§ [2.2-5208 5](#)).
- Identify and design wrap around services and supports for the child, birth parents or prior custodians, and/or resource family as appropriate to help facilitate success with the placement and achieve permanency for the child.
- Help maintain relationships, facilitate visitation, *and provide continuity* for the child with family, friends, school, religious, spiritual, and other cultural and community connections through placing the child:
 - *In as close proximity as possible to the birth parent(s) or prior custodian's home and neighborhood to provide educational stability for the child* ([22 VAC 40-201-40 A](#)).
 - With caregivers who actively support the child returning to and maintaining connections with his family.
- Take into account the appropriateness of the child's current educational setting and the distance from the new placement to the school in which the child is currently enrolled *for the school age child* ([Social Security Act, Title IV, § 475 \(1\) \(G\) \[42 USC 675\]](#)).

6.4 Keeping siblings together

When a child is placed in foster care, all reasonable steps shall be taken to place siblings together in the same foster home. When siblings are placed in separate foster homes, a plan should be developed **within 15 calendar days** after placement to encourage frequent and regular visitation or communication between the siblings.

The foster care plan shall include the plan for visitation between the child and parent(s) or prior custodians. If siblings are separated, the plan for visitation and communication with siblings shall also be included. This visitation or communication plan between siblings should be developed **within 5 days of placement** if siblings are separated. The visitation or communication plan shall take into account the wishes of the child, consistent with the child's developmental level. The plan should also specify ways for the child to connect with friends and other adults who are significant to the child. The plan shall specify the frequency of visitation or communication, identify who is responsible for ensuring the visits or communication take place, and state any restrictions or limitations to the visits or communications. The communications may include, but are not limited to, face-to-face visits, telephone calls, email correspondence, and video conferencing. *The visitation plan should include twice monthly contact at a minimum.*

6.5 Key partners in making placement decisions

To help ensure the most appropriate placement to help achieve permanency for the child, the service worker shall:

- Involve birth parents or prior custodians as an integral part of the process in determining what is in their child's best interest, whenever possible.
- Consult with the child if the child is age 12 or older, or obtain input from the child if the child is under age 12 and capable of communicating his wishes. Provide the child all relevant information about entering foster care, listen and respond to questions, and help the child communicate and work through his or her wishes and concerns.
- Involve prospective caregivers.
- Request a Family Partnership Meeting.
- Consult with the *child's current* school on the appropriateness of the child's current educational setting *for the school age child*. The service worker *shall* notify the child's current school that the child will be moving to a new placement and the necessary timeframe for making this decision. The school representative may be asked to attend the Family Partnership Meeting or may provide this information through an alternative method. *The LDSS shall take into account the*

educational information provided by the school and the distance of potential placements to the child's current school in the placement decision-making process.

6.6 Engaging relatives and significant adults as placement options

As part of the placement process, the LDSS shall diligently search for adult relatives and other individuals who have had significant relationships with the child to identify placement options (see [Section 2.5](#)). Individuals not related by birth, marriage, or adoption to the child, but who have emotionally significant relationships with the child, may be willing to fulfill the functions of a family relationship for the child in foster care.

The LDSS shall also make diligent efforts to notify in writing all grandparents and other adult relatives, both maternal and paternal, that the child is being removed or has been removed. The purpose of the written notice is to explain the permanency options and the concurrent planning process, as well as invite the relatives to participate in the care and placement of the child. This notice shall occur **within 30 calendar days** after removing a child from the custody of the parent(s) (see [Section 2.3](#)).

The service worker should engage the child, birth parents or prior custodians, and potential relative caregivers in a collaborative decision-making process on how to achieve permanency for the child, unless their involvement is not in the best interests of the child. The service worker should encourage relatives and other significant individuals to consider serving as placement options for the child, consistent with the child's safety, best interests, and personal desires.

Placements with family members and other adults should be reconsidered throughout the child's involvement with the child welfare system. Someone who initially was not able to serve as a placement or permanent family for the child may be able to serve in this capacity at another time.

6.7 Procedures prior to out-of-home placement

Prior to placing a child in any out-of-home placement, whether an initial placement or placement change, the service worker:

- Shall discuss placement options to achieve permanency for the child with key partners (see [Section 6.7.1](#)).
- *Shall consult with the child's current school, for the school age child, and take into account in the placement decision the appropriateness of the child's current educational setting and the distance of potential placements to the child's current school (see [Section 6.5](#)).*
- Should *convene* a Family Partnership Meeting (see [Section 6.7.2](#)).

- Shall conduct a pre-placement visit to the home or facility (see [Section 6.7.3](#)).
- Should prepare key partners for the placement (see [Section 6.7.4](#)).
- Shall enter into written agreements with the provider (see [Section 6.7.5](#) and [Section 6.7.6](#)).

When placing the school age child in any out-of-home placement, the LDSS shall, in writing, jointly determine with the local school division whether it is in the child's best interest to remain enrolled in the school where the child was enrolled at the time of the placement (see [Section 6.17.1](#)).

If an emergency situation precludes some of these activities, they should be done at the time of placement or as quickly as feasible (see [Section 6.8](#)).

6.7.1 Discussing permanency and placement options

The service worker should discuss each permanency option with the child, birth parents or prior custodians, relatives, and significant individuals. The purpose of these conversations is to keep these individuals fully informed so they can help make informed decisions.

Specifically, the service worker should candidly and fully discuss, as appropriate, that:

- The child's health and safety are the highest priorities in all decision making.
- The primary goal is to support the parents or prior custodians so the child can return home as soon as possible.
- The value of pursuing several options concurrently to determine the option that meets the child's best interests, if the child cannot return home and to ensure timely decisions given the urgent situation for the child.
- The specific strengths, needs, resources, and supports for the child and family.
- The roles, benefits, rights, and responsibilities of the child, resource parent, and LDSS when serving as a permanent placement for the child, including the process for:
 - Becoming a resource parent.
 - Adopting.
 - Transferring custody from LDSS to the relative.

- How reunification with the child's family and adoption into a permanent family are more permanent alternatives for the child, compared with transferring legal custody of the child to a relative.
- The advantages of adoption for the child when he or she cannot be returned home, including that adoption:
 - No longer requires the child to be totally separated from birth parents.
 - Provides the most permanent legal relationship for the child.
 - Provides permanent family connections throughout the child's life, not just until the child becomes an adult.
- The availability of a Federal adoption tax credit for eligible taxpayers based on reasonable and necessary expenses related to a legal adoption See Child and Family Services Manual, Chapter F., Adoption, [Section 2.8.4](#).
- The availability of maintenance payments and foster care services.
- The enhanced maintenance process and the manner in which payments are calculated, modified, and terminated, based on the needs of the child.
- The process for negotiating and signing a placement agreement.
- Any concerns and ways to address those concerns in becoming a resource parent and potentially adopting or assuming custody of the child.

6.7.2 Family Partnership Meetings prior to child's removal and placement

A Family Partnership Meeting should be held prior to the child's removal from home and prior to any subsequent placement changes, including a disruption in an adoptive placement, to engage the family, significant other adults, and community members in the decision-making process (see [Section 2.8](#)).

The service worker should schedule a Family Partnership Meeting when the child's safety is in jeopardy, the child is at risk of emergency removal, or the child is at risk of out of home placement. The meeting should be scheduled **within 24 hours** of safety issues being identified and occur **before the 5-day** court hearing in cases after the removal.

The participants in the Family Partnership Meeting should help determine whether:

- The agency should file for custody and facilitate placement;
- The child can remain or return home safely with services; or

- The parents will voluntarily place the child with services provided and safety plan implemented.

6.7.3 Pre-placement visits

An LDSS service worker shall make a pre-placement visit to any out-of-home placement to observe the environment where the child will be living. The date of the pre-placement visit shall be entered in OASIS.

- The pre-placement visit shall precede the placement date and may be any visit to an out-of-home placement by an LDSS service worker up to 90 calendar days prior to placement.
- An exception to the pre-placement visit is an emergency situation, which shall be documented in the case narrative. In such emergency situation, a pre-placement visit may be the day of placement.
- When a child is to be placed outside of Virginia with relatives, in a foster home, in an adoptive home, residential facility or an independent living arrangement, the pre-placement visit shall be made by an authorized agency in the receiving state in accordance with [Interstate/Intercountry Compact for the Placement of Children \(ICPC\) procedures](#).

6.7.4 Preparing key partners for placement

The service worker shall share information and help prepare the child, birth parents or prior custodians, the prospective provider (the approved or licensed provider where the child will be placed), and the child's school for the child's change in placement. These activities should include:

- Facilitating birth parents or prior custodians and the prospective provider working together to meet the child's needs.
- Discussing the placement with the birth parents or prior custodians including the specific arrangements for visits and communication between the child, siblings, and family members.
- Providing the child, according to his or her age and ability, all relevant information about the out of home placement, responding to questions and concerns PRIOR to the child's move to the placement.
- Scheduling a pre-placement visit for the child when circumstances allow.
- Providing the prospective provider all information known about the child, at initial placement and on an ongoing basis, and relevant information about the birth family in order to assure that the provider has the information necessary

to maintain safety and manage the needs of the child. The service worker shall provide and review the service plan with providers as a means of meeting this requirement, excluding the sections of the plan describing the reasons why the child cannot return home and the alternatives chosen. The service worker should also provide information on:

- Child and family assessments.
 - Social history.
 - Siblings, significant adults, friends, and community connections important to the child.
 - Educational, medical, and behavioral health information.
- Notifying the school in which the *school age* child is currently enrolled of the placement decision and the *requirement to jointly determine in writing* the most appropriate educational setting based on the child's best interest as quickly as possible (e.g., **within three business days**) (See [Section 6.17.1](#))

6.7.5 Placement agreement with Code of Ethics and Mutual Responsibilities

Prior to placing the child in a foster home or children's residential facility, a written agreement shall be signed on or before the date the child is placed in the home or facility ([§ 63.2-900 C](#)). The agreement shall be between the LDSS or the Licensed Child Placing Agency (LCPA) and the foster parent or the head of the children's residential facility. It shall remain in effect until the child leaves the placement.

This agreement provides that the LDSS or LCPA shall have access at all times to the child and to the foster home or children's residential facility. It also provides that the foster parent(s) or the head of the facility will release the child to the LDSS or LCPA whenever the LDSS, LCPA, or Commissioner determines it is in the child's best interests ([§ 63.2-902](#)). This agreement is not the vendor contract agreement between the LDSS and the LCPA that delineates the authority, roles, and responsibilities of the respective agencies.

The written agreement shall include at a minimum a Code of Ethics and Mutual Responsibilities for all parties named in the agreement ([§ 63.2-900 A](#)). The Code of Ethics and Mutual Responsibilities is not inclusive of all ethical standards or responsibilities, but rather a minimum set of expectations provided to guide the partnership between the child placing agency and the family or the children's residential facility serving children in the Virginia foster care system. Additional expectations for the care of the child are outlined in other documents such as the foster care service plan, child specific addenda, financial agreements, and/or other contractual documents.

There are two types of agreement, one for each placement type: foster homes and children's residential facilities. The two agreements are similar with slight variations depending on placement type.

These agreements are located on the [VDSS SPARK page](#) or the [VDSS public website](#). The State Board of Social Services approved the language of these agreements at its February 2009 board meeting.

The LDSS and LCPAs may place the agreement on their own letterhead stationery as long as the wording of the agreement is not changed. The agreement may be inserted as part of their package of placement documents. *When* the LDSS or LCPA needs to contract around items not set out in this agreement, other forms or documents may be used in conjunction with this agreement (e.g., a financial agreement).

6.7.5.1 Placement agreement with foster homes

Prior to placing the child in a foster home, the LDSS or LCPA that is placing the child presents the written agreement to the foster parent. It is entitled "Foster Care Agreement: Code of Ethics and Mutual Responsibilities." The foster parent(s) should be familiar with this agreement based on discussions of the agreement during pre-service training. The date of the child's placement should not be the first time the foster parent(s) see the form.

The agreement is between the agency (LDSS or LCPA) that approved and supervises the home and the foster parent. When an LDSS places a child with an LCPA, the agreement is between the LCPA and its foster home. The representative of the LCPA and the foster parent(s) sign the agreement. LDSS only signs the agreement when it approves and supervises the foster home.

The agreement shall be signed on or before the date of the child's placement by the:

- Service worker from the agency (LDSS or LCPA) that approved the home.
- Foster parent(s) of the home.
- LDSS director or LCPA executive director or designee. There may be emergency circumstances which may prevent the LDSS director from being able to sign on or before the placement date. In these circumstances, this person shall sign the placement agreement **within five calendar days** of the child's placement date.

6.7.5.2 Placement agreement with children's residential facilities

Prior to placing the child in a licensed children's residential facility, the LDSS or LCPA that is placing the child (placing agency) presents the written agreement to the residential facility. It is entitled, "Children's Residential Facilities Agreement: Code of Ethics and Mutual Responsibilities."

The agreement is between the placing agency and the children's residential facility. It shall be signed on or before the date of the child's placement by the:

- Service worker from the placing agency.
- Head of the children's residential facility or designee.
- The placing agency director or designee.

When a child is placed in a children's residential facility licensed as a temporary emergency shelter, the agreement may be completed and signed **within 24 hours** of the child's arrival *when* a verbal agreement for placement is secured within eight hours of the child's arrival at the temporary emergency shelter ([§ 63.2-900 C](#)).

6.7.6 Financial agreement with provider

The VDSS approved template, "Financial Agreement for LDSS Approved Providers" (032-02-0052-03-eng), *shall* be signed when a child is placed *with the LDSS approved* provider. It requires LDSS to specify when the provider's monthly payments for the care of the child will be available. Timely payments should be made within the month following the month when services to a child were provided. Other local policies and procedures related to payment should be explained to the provider.

A financial agreement or contract, which documents the currently negotiated room and board rate and individual requirement items, shall be required for every child placed in a children's residential facility.

6.8 Procedures for emergency foster care placements

When it is in the best interest of a child to live with someone who is not already approved as a provider, the service worker may make an emergency placement when certain requirements are met (see the [Local Department Resource, Foster and Adoptive Home Approval Guidance Manual](#)). The child may be temporarily placed in the home until the home is approved or a more appropriate placement is found. Children may be placed with relatives or individuals with whom the child has formed a significant connection, on an emergency basis, up to 60 calendar days, while efforts are being

made to approve the home or locate another approved placement. Placements beyond 60 days require full approval of the home.

Emergency placements may be made when:

- The individual is committed to providing care for the child for as long as is necessary and is willing to work with the LDSS, the family, and others involved with the child.
- The individual is known to the child, has a significant emotional bond to the child, and when able, the child voices his approval of the placement.
- The family partnership team meeting identifies the individual as the best placement resource for the child.
- A pre-placement visit is made or occurs on the day of placement and is documented in the case narrative.
- The standards for emergency approval and requirements for a Criminal Background Check and child abuse and neglect central registry search are met (see Section 1.5.2, [Local Department Resource, Foster And Adoptive Family Home Approval Guidance Manual](#) for background check requirements).
- The individual(s) agrees to and begins the process of becoming an approved provider in accordance with the standards for approving locally approved providers (see [Local Department Resource, Foster and Adoptive Family Home Approval Guidance Manual](#)).

Homes where a temporary or permanent variance has been issued for non-safety standards are fully approved and Title IV-E funds may be used for an eligible child. However, foster homes granted a temporary variance shall only remain fully approved and eligible for the use of Title IV-E funds if they comply with all requirements of the temporary variance. Title IV-E payments cannot be made for care in a home that does not fully meet standards. (see [Local Department Resource, Foster and Adoptive Family Home Approval Guidance Manual](#)).

CSA pool funds shall be used during the emergency approval period unless the variance was approved ([22 VAC 40-211-90](#)). Title IV-E funds cannot pay retroactively for the emergency approval period.

Placements in an emergency foster home through an agency such as VEFC are allowable placements. Although volunteers do not receive payment for shelter, food and supervision, IV-E funds may be used for clothing and daycare or other allowable maintenance expenses.

6.8.1 Purchasing emergency shelter services

Emergency Shelter service is the temporary housing and supervision of a child to prevent abuse, neglect, or exploitation. The service is provided in foster family homes and residential facilities approved for emergency shelter. Payments may be made for reserve space under the following conditions:

- Payment may be made until a more permanent arrangement can be made.
- Rates are negotiated by the LDSS for approved emergency foster family homes. There shall be an agreement specifying that the home is approved for emergency shelter and the rate of payment.
- Payment for the child in custody of the LDSS is from Title IV-E or state pool funds, not protective services. A child removed from foster care placement because of abuse or neglect and placed in emergency shelter remains a foster care case.
- Rates are negotiated between the provider and purchaser based upon CPMT procedures for residential care.
- The locality, based on CPMT guidelines, may negotiate a fee to reserve space in an approved emergency shelter foster family home or facility and pay those fees out of state pool funds.

6.9 Procedures for placement changes

When a child is currently in a foster care placement and the LDSS is considering moving the child to a new placement, the service worker shall address the critical decisions in making placements (see [Section 6.3](#)) and key partners to involve in placement decisions (see [Section 6.5](#)). The service worker should also follow the procedures prior to making an out-of-home placement (see [Section 6.7](#)).

To accurately track the whereabouts of children in foster care, placement information for the child shall be entered into OASIS **within five (5) calendar days** of any placement change.

6.9.1 Family Partnership Meetings to preserve or change placements

A Family Partnership Meeting should be requested before the child is moved from one placement to another. The purpose of the meeting is to determine if the current placement can be sustained safely and, if not, what placement alternatives are available. The meeting should be scheduled ideally when chronic or recurring problems in the placement are evident, but no later than when potential disruption of the foster placement is recognized, safety issues exist, or a move from the current placement is believed necessary to benefit the child. The following individuals may

request the meeting: the child, birth parent, legal guardians, adoptive parents, foster parents, adoptive parents, or LDSS.

If the situation is urgent, the meeting should be scheduled **within 48 hours** of the request. If the meeting is to discuss a planned change in placement, it should be scheduled **within five (5) business days**.

6.9.2 Collaborate with school to ensure school stability

When making a placement change for the school age child, the LDSS shall:

- *Consult with the child's current school and take into account in the placement decision the appropriateness of the child's current educational setting and the distance of potential placements to the child's current school (see [Section 6.5](#)).*
- *Jointly determine in writing with the appropriate school division whether it is in the child's best interest to remain enrolled in the school where the child was enrolled at the time of the placement (see [Section 6.17.1](#)).*

6.9.3 Notification of placement changes and maintaining connections

The foster care plan shall include the plan for visitation between the child and parent(s) or prior custodians. If siblings are separated, the plan for visitation and communication with siblings shall also be included. The visitation or communication plan shall take into account the wishes of the child, consistent with the child's developmental level. The plan should also specify ways for the child to connect with friends and other adults who are significant to the child. The plan shall specify the frequency of visitation or communication, identify who is responsible for ensuring the visits or communication take place, and state any restrictions or limitations to the visits or communications. The communications may include, but are not limited to, face-to-face visits, telephone calls, email correspondence, and video conferencing.

All parents with residual parental rights or prior custodians shall be involved in determining changes in the placement of the child or in visitation arrangements. The service worker shall notify the parents or prior custodians in writing **within ten (10) calendar days** of such a change. Siblings, friends, and other significant adults *shall* be notified of any changes that impact their visitation and communication with the child.

While birth parents or prior custodians are involved in the Family Partnership Meeting and will know the placement decision and plans for maintaining connections with the child, the LDSS shall notify all parents with residual parental rights or prior custodians in writing of any changes in placement, visitation and communication **within 10 calendar days** of such a change. Plans for visitation and communication with parents or prior custodians shall be included in the child's service plan (see [Section 12.5.1](#)).

In the case of an emergency placement change, the birth parent with residual parental rights or prior custodian and all other relevant parties shall be notified immediately of the placement change. The agency shall inform the birth parent or prior custodian of why the placement change occurred and why the birth parent or prior custodian could not be involved in the decision making process. ([22VAC40-201-40 1.2](#))

If the child is returned to his or her birth parents or prior custodians, the service worker shall immediately notify the court in which the foster care plan is filed ([§ 16.1-281 D](#)).

Within 72 hours of the child being placed, the service worker shall notify in writing the school principal and superintendent of the need to *immediately* enroll the child and the status of parental rights (see [Section 6.17.2.2](#)).

Maintaining significant connections for the child during times of transition is important. When placements change, the service worker should notify siblings and significant family members, friends, and adults to help support the child and to arrange plans for visits and communication with the child during and after the transition.

6.10 Placements leading to permanency for child

Placements should be designed to help achieve permanency for the child, where the child is discharged from foster care to live with a permanent family.

Placements shall help facilitate reunification, consistent with the child's safety and best interests. If the LDSS concludes that it is not reasonably likely that the child can be returned to his or her prior family within a practicable time, the LDSS shall make placements that help facilitate adoption by a relative or non-relative or transfer custody to a relative within the shortest practicable time, consistent with the best interests of the child ([§ 16.1-281 B](#)).

6.10.1 Placements leading to reunification

The service worker shall make reasonable efforts to make placements that safely reconnect the child with his or her birth parent(s) or prior custodians to facilitate reunification within the shortest practicable time ([§ 16.1-281 B](#)). The child's health and safety shall be the paramount concern. Reunification should always be pursued unless aggravated circumstances exist that indicate return home is not in the child's best interest (see [Section 7.6.2](#)).

Permanency for the goal of reunification is achieved when the child is reunified with his or her family with custody transferred back to the birth parent(s) or prior custodians.

6.10.2 Placements leading to adoption

If reunification is not reasonably likely for the child within a practicable time, adoption of the child by a relative or non-relative provides the child the same legal and social status that is afforded to children born to the parent(s). In determining the best interests of the child for adoption, the service worker should consider the relevant factors that are required for the circuit court or juvenile and domestic relations district court. These factors include, but are not limited to:

- The birth parent(s)' efforts to obtain or maintain legal and physical custody of the child.
- Whether the birth parent(s) are currently willing and able to assume full custody of the child.
- Whether the birth parent(s)' efforts to assert parental rights were thwarted by other people.
- The birth parent(s)' ability to care for the child.
- The age of the child.
- The quality of any previous relationship between the birth parent(s) and the child and between the birth parent(s) and any other minor children... ([§ 63.2-1205](#)).

Permanency is achieved when the final order of adoption is entered.

6.10.3 Placements leading to custody transfer to a relative

Another option for the service worker is to facilitate a successful placement with a relative with subsequent transfer of custody within the shortest practicable time. This option shall be based on the best interests of the child if reunification is not reasonably likely within a practicable time ([§ 16.1-281](#)). In order for the juvenile and domestic relations district court to transfer custody of the child to a relative other than the child's prior family, the court shall enter an order only on a finding based upon a preponderance of the evidence that the relative is:

- Willing and qualified to receive and care for the child.
- Willing to have a positive, continuous relationship with the child.
- Committed to providing a permanent, suitable home for the child.
- Willing and has the ability to protect the child from abuse and neglect ([§ 16-1.281 C1](#)).

Permanency is achieved when legal custody is transferred to the relatives with whom the child is placed.

6.11 Placements for children with alternative goals

Since permanency involves the child leaving the foster care system to live with a permanent family, these goals do not achieve permanency for the child. Rather, the child remains in foster care.

If the service worker, in collaboration with the Family Partnership Team, determines that the child's home, an adoptive home, or placement with relatives with subsequent transfer of custody to the relative are not in the child's best interest at this time, they may select an alternative goal and place the child in an alternative living arrangement while continuing to pursue permanency for the child.

Permanency should be pursued for all children in foster care. The service worker should continually evaluate the child's best interests and the changing circumstances of the child and extended family. As new opportunities arise that are consistent with the child's best interests, the service worker shall make diligent efforts to place the child with a permanent family and end placement in the foster care system. Permanency is achieved when the child is returned safely home, adopted, or custody transferred to a relative.

6.11.1 Placement with goal of Permanent Foster Care

Youth who have a Permanent Foster Care goal shall be placed in a foster family home where the youth and the foster parent(s) already have a clearly established, strong relationship. Since this goal is only to be used when such a relationship already exists, there is no other placement for youth with this goal.

Permanency should be pursued through fully discussing with the permanent foster parent(s) the benefits of adoption for the youth (see [Section 6.7.1](#)).

6.11.2 Placement with goal of Independent Living prior to July 1, 2011

Effective July 1, 2011, no youth placed in foster care shall have the goal of Independent Living. All efforts shall be made to find permanency for youth through reunification with family, adoption or placement with relatives. However, those youth that had the goal of Independent Living prior to July 1, 2011 shall be able to maintain the goal of Independent Living. Efforts should continue to be made to provide permanency for those youth. An independent living arrangement with an adult whom the youth has a significant bond is the preferred placement.

Youth with the goal of Independent Living should live in community settings where the main focus is on developing the skills to successfully transition to adulthood. The youth should be placed in a setting that creates daily opportunities for the youth to

learn and practice independent living skills and to build and nurture lifelong relationships with positive caring adults.

Independent living arrangements cover a broad range of options. They include, but are not limited to, living with an adult with whom the youth has developed a bond; living in one's own apartment; living with a roommate; and living in a college dormitory. Youth with the goal of Independent Living should not be placed in residential facilities since such facilities are not primarily for the purpose of developing independent living skills and transitioning the youth to adulthood.

Opportunities to facilitate reunification, adoption, or placement with and custody by a relative shall continue to be pursued.

6.11.3 Placement with goal of Another Planned Permanent Living Arrangement

Placements for youth with the goal of Another Planned Permanent Living Arrangement (APPLA) are group homes or residential settings. APPLA is intended to be used for those youth with chronic disabling conditions (e.g., severe neurological impairments or significant developmental delays requiring extensive assistance by and monitoring from adults) for whom living in a less restrictive setting is clearly not in the youth's best interest at the current time. If such youth become able to live in a less restrictive environment (e.g., foster family home), the goal shall be changed and permanency pursued.

6.12 Placements in relative homes

When the child cannot live safely with his or her birth parents or prior custodians, the service worker shall first explore placements with relatives and extended family members. When a relative is identified as the best placement resource for a child but is not a fully approved provider, the child can still be placed in that home on an emergency basis (see [Local Department Resource, Foster and Adoptive Family Home Approval Guidance Manual](#)). The service worker should determine if the relatives, whether fully approved provider or not, are capable and committed to:

- Being a permanent connection and resource for the child.
- Housing and caring for the child as long as may be needed, understanding the need for permanency and concurrent planning.
- Protecting the child's health and safety, including protecting the child from abuse and neglect by the birth parents or other individuals, if needed.
- Establishing boundaries to address any unauthorized requests by the birth parents for access to the child, if needed.

- Working collaboratively with the local school system and LDSS to ensure the child is enrolled and attending an appropriate educational program for the child.
- Housing and caring for the child's siblings, or if this is not feasible, ensuring communication and visits with siblings.
- Maintaining connections, communication and visits with birth parents, prior custodians, and other significant adults in the child's life, consistent with the child's best interest.

The child shall not be placed with a relative if it is contrary to the child's best interests. However, decisions by relatives or an LDSS that a relative is currently not capable of serving as a relative custodian should not affect whether the relative is considered for this option in the future, or whether the relative might serve as a support to the child in another capacity.

If the decision is made to place the child with the relative, the service worker shall share all information known about the child at initial placement and on an ongoing basis, so that the relative has the information necessary to maintain the safety and manage the needs of the child.

6.13 Placements in resource family homes

When the LDSS determines that the child cannot remain safely at home and the diligent search for relatives has not resulted in placement of the child with his or her extended family, the service worker shall consider placement with a resource family. Resource families often commit to support reunification with the child's family, but are also prepared to adopt if the child and family do not reunify.

While many resource families agree to both foster and adopt children, some resource families may choose to only foster or only adopt children. The service worker should carefully consider the preferences of resource families, the needs of the child, and the permanency goal to ensure an appropriate match for the child and his or her situation, prior to placing the child.

6.13.1 Resource family home approval requirements

LDSS resource family homes shall meet provider approval requirements as discussed in the [Local Department Resource, Foster and Adoptive Family Home Approval Guidance](#).

Treatment Foster Care (TFC) homes are fully approved homes that provide services designed to address the special needs of children and families. Services to children and youth are delivered primarily by treatment foster parents who are trained, supervised, and supported by agency staff. Treatment is primarily foster family based and is planned and delivered by a treatment team.

Child-placing agencies, both private and public, shall be certified by the Division of Licensing Programs to provide Treatment Foster Care Case Management Services ([12 VAC 30-130-920](#)). LDSS that are certified to provide Treatment Foster Care Case Management Services may elect to seek Medicaid reimbursement for allowable services.

Additional information about [treatment foster care](#) can be obtained through the VDSS' Division of Licensing Programs Child Welfare Unit at (804) 662-7367 or online.

Children should be placed in TFC homes only when the specialized services available through such homes are consistent with the documented needs of the child. TFC placements should not be considered a step down in a process of reducing the intensity of placement types needed by a child. If the needs of children placed in TFC homes decrease over time, the child should remain in that home until the child is reunified or another permanency goal is achieved.

6.13.2 Resource family homes providing services to more than one LDSS

Resource families may be providers for more than one LDSS. The LDSS that initially approved the home shall be responsible for continued approval of a resource family that is used by more than one LDSS. It shall also be responsible for on-going monitoring of any change in circumstances within the home that may affect the provider's ability to serve as a caregiver. Required quarterly contacts may be done by either locality upon agreement.

When another LDSS wishes to place a child with a resource family that was initially approved by another LDSS, the service worker from the requesting LDSS shall contact the initial approving LDSS and obtain prior verbal approval from the initial LDSS for each child that the requesting LDSS wishes to place. The requesting LDSS shall agree to hold the resource family accountable for complying with the same mandates required by the initial approving agency, such as mandatory in-service training.

The decision to place the child shall be based on considerations such as: the safety of all children in the home; the provider's ability to manage additional children; and whether or not the best interests of all children placed in the home will be met.

If the initial approving LDSS agrees to the placement, it shall notify the requesting LDSS in writing **no later than ten (10) business days** after the placement. It shall also notify all other LDSS that have children placed in the home that another child is being placed in the home. The requesting LDSS shall then notify the approving LDSS in writing when the child leaves the home or when the child's permanency goal changes.

If the initial approving LDSS does not agree to the placement, then the requesting LDSS shall not place the child in the home.

6.13.3 Purchasing home studies and placement services

In-state home studies for the dual approval of a foster and adoptive home may be purchased from licensed child-placing agencies. In the case of a family only wanting to adopt, the LDSS may access VDSS contracts with private child-placing agencies to complete the adoption home study. These studies may be funded by Title IV-E (if on behalf of a Title IV-E child) or CSA.

Home studies that the LDSS performs at the request of another state or that the LDSS pays for which are conducted with a family in another country are 100% funded by Title IV-E ([Social Security Act, Title IV, § 471 \(a\) \(26\)](#) and [§ 474 \(a\) \(3\) \(E\) \[42 USC 671\]](#)). (See LASER Manual for budget line.)

Placement services, including study and approval of foster homes, may be purchased from licensed child-placing agencies for a specific child. These costs are Title IV-E or CSA allowable depending on the child's eligibility status for Title IV-E.

6.14 Placement in Independent Living Arrangements

Independent living arrangement means that a youth is living independently under a supervised arrangement that is paid for or provided by the LDSS. A youth in an independent living arrangement is not supervised 24 hours a day by an adult. The youth is provided with opportunities for increased responsibility such as; paying bills, assuming leases, and working with a landlord. Examples include living in one's own apartment; living with a roommate; or living in a college dorm.

The decision to place a youth in an independent living arrangement, especially since it does not include adult supervision, shall be based on an assessment of the availability of other more permanent living options for the youth such as placement with family members or other caring adults. If a permanent placement with family or other concerned adults is not possible, an independent living arrangement that includes access to adult support networks (e.g., living close to family, previous caregivers, etc.) may be considered. An assessment of the youth's capacity and willingness to manage his daily life in a safe, mature manner must also occur to ensure the youth is capable of managing in such an arrangement.

6.14.1 Factors to assess in determining youth's readiness

A youth, age 16 and over, may live in an independent living arrangement provided the youth has demonstrated maturity and the skills and ability to live without parental supervision. The following factors should be used to assess a youth's readiness for placement in an independent living arrangement and the type of arrangement best suited to meet the youth's needs:

- Age: The youth shall be at least 16 years old.
- Foster Care goal: The youth may have the goal of Independent Living (only if assigned prior to July 1, 2011). For all youth in Independent Living arrangements, efforts should continue to be made to find permanency by locating and supporting a lifetime family relationship for the youth.
- Assessment: Results of a recently completed Life Skills Assessment; (see [Section 5.8.2](#) and [Section 14.7](#)).
- Education: The youth shall be enrolled and participating in an educational and/or vocational program.
- Employment: The youth should be employed at least part-time unless the youth is a full-time student in college or an apprenticeship or trade program.
- Use of services: The youth is taking full advantage of services and programs offered to help him make the transition to self-sufficiency and interdependence.
- Emotional readiness: The youth demonstrates a high level of maturity and emotional stability. The youth is not a threat to himself or the community. The youth is not involved in high-risk behaviors (i.e., delinquent or criminal activities, substance abuse).
- Motivation: The youth played a significant role in designing his foster care plan addressing his independent living needs. He has identified personal goals and has taken action toward reaching the goals. The youth is following the Foster Care Service Plan, including the transitional plan, and cooperating with the LDSS. The youth demonstrates appropriate behavior and takes on progressively more responsibility. The youth wants to be in a setting less supervised and less structured than his current foster care placement.
- Willingness to learn: The youth is willing to learn independent living skills and accepts help from the service worker and others who offer support and guidance.

When it is determined that an older youth in foster care would be more appropriately served in an independent living arrangement, such as an apartment, the following requirements shall be met:

6.14.2 Approving the Independent Living Arrangement

The worker shall make an on-site visit to the independent living arrangement before approval can be given for each arrangement. The arrangement should be re-

approved annually. Housing approved by colleges and other educational or vocational providers is exempt from this requirement.

6.14.3 Agreement for placement in Independent Living Arrangement

An agreement between the LDSS and the youth shall be mutually developed and signed in duplicate. One copy of the agreement is given to the youth. The other is kept in *the child's foster care paper case* record. It shall be compatible with the youth's service plan.

The agreement shall include, but is not limited to the following:

- Purpose of the Independent Living Arrangement, with time frames for achieving the transition goals identified.
- A list and description of the LDSS' activities to support achievement of the identified purpose of the independent living arrangement. Activities provided by the LDSS can include counseling, transportation, payment of particular special needs, etc.
- A list and description of youth's activities to attain achievement of the identified purpose of the independent living arrangement. Activities the youth shall include are school, employment, therapy, etc.
- The method, frequency, and amount of financial payment as prescribed by policy governing rates for independent living arrangements (see [Section 6.14.4](#)).
- The condition and frequency of supervision.
- The youth's understanding that the physical arrangements shall be approved by the LDSS.
- The youth's responsibility to inform the LDSS **within 72 hours** of any major changes in his situation, such as *housing, school, or employment* changes.
- The right of either the service worker or the youth to request a conference with the worker's supervisor or LDSS director when terms of the agreement are not met by either party.

6.14.4 Paying for Independent Living Arrangements

- The standard statewide payment for independent living (IL) arrangements is a maximum of \$644.00 per month.
- Payment cannot be made from Title IV-E, but is made from state pool funds.

- Payments may be made directly to the youth and may be made more often than once a month, provided the maximum is not exceeded. The method of payment shall be documented in the agreement with the youth.
- For the youth over age 18 who remains in his or her foster home, Title IV-E funds (when the child meets requirements for use of these funds up to age 19) or CSA funds may continue to be used to pay for maintenance costs. If neither Title IV-E nor CSA funds are being used to pay the foster care monthly maintenance rate, the IL stipend may be used to support the youth in enabling him or her to remain in the foster parent's home. If the stipend will be used to pay rent to the foster parent, this arrangement should be documented on the agreement with the youth and in OASIS.
- Payments are intended to assist the youth in covering the costs of rent, utilities, household equipment, food, clothing, personal care items, insurance, recreation, and transportation.
- A portion of Chafee Independent Living funds may also be used to support the living expenses of youth between age 18 and 21 in accordance with [Chafee guidelines](#). The regional [Project LIFE Independent Living Consultant](#) is also available to provide additional guidance in this area.

6.15 Placements in residential programs

6.15.1 Definition and objectives of residential placement

Residential placement means temporary placement of the child in a licensed publicly or privately owned residential program that provides 24-hour supervised care in a group. Residential care includes: psychiatric hospitals, residential facilities, group homes, crisis stabilization units, emergency shelters, or assessment centers. *This does not include detention facilities, forestry camps, training schools or any other facility operated primarily for the detention of children or youth who are determined to be delinquent.*

Residential placement offers care and treatment for a child who requires more restrictive, time-limited, and intensive interventions as part of the continuous focus on stabilizing the child and family, returning the child home, or placing the child with another permanent family.

Placement in residential care shall be consistent with the documented needs of the child and shall be determined to be the most appropriate placement to meet those needs at the current time. Family-centered and community-based services, practices, and supports should be provided for the child to maintain permanent connections with his or her family, with relationships important to the child, and with the community. Maintaining these connections helps to prepare the child to more

smoothly return home or transition to a permanent home at the earliest appropriate time, consistent with the child's needs.

Characteristics of residential programs that have been correlated with long-term positive outcomes for children include:

- High levels of family involvement.
- A family-like environment.
- Supervision and support from caring adults.
- Individualized treatment plans.
- Academic support.
- A skill-focused curriculum.
- A focus on building self esteem.
- Positive peer influences.
- Minimally stressful environment.
- Enforcement of a strict code of discipline.
- Presence of community networks.
- Service coordination.
- Comprehensive discharge planning¹.

6.15.2 Pre-placement planning and placement in residential care

For children who are at risk of entering, or who are placed in, a residential program, the service worker shall ensure all of the following activities are conducted:

- Identify children who can be appropriately and effectively served in their homes, relatives' homes, family-like settings, and communities.
- Identify the strengths and needs of the child and family through conducting and/or reviewing comprehensive assessments including, but not limited to, information gathered through the Virginia Child and Adolescent Needs and Strengths Assessment (CANS).

¹ Child Welfare League of America, [Position Statement on Residential Services](#)

- Identify specific services and supports necessary to meet the needs of the child and family, building upon their strengths. Assess and document the appropriateness of community based services and less restrictive alternatives (e.g., child's own home, relatives, extended family, regular foster home, or treatment foster home).
- Refer the child and family to the Family Assessment and Planning Team (FAPT) and work collaboratively with FAPT, in accordance with Community Policy and Management Team (CPMT) procedures for:
 - Providing information and supporting documents about the child and family.
 - Participating in FAPT meetings.
 - Coordinating efforts with the provider of intensive care coordination services through the Community Services Board. The purpose of intensive care coordination services are to safely and effectively maintain, transition, or return the child home or to a relative's home, family-like setting, or community at the earliest appropriate time that addresses the child's needs.
 - Developing and beginning to implement a plan for returning the child home, to a relative's home, or to a family-like setting at the earliest appropriate time consistent with the child's needs. The plan shall include public or private community-based services to provide the on-going support the child and family will need during the transition to community-based care. This collaborative planning should involve the child, family, service worker, and Intensive Care Coordinator and other members from the Family Partnership Meeting.
 - Implementing a plan for regular monitoring and utilization management of the services and residential placement for the child, consistent with CSA guidelines and CPMT policies. The purpose is to determine whether the services and placement continue to provide the most appropriate and effective services for the child and family (see [CSA Policy Manual Appendix A](#)).
 - See information on intensive care coordination located in the [CSA Policy Manual, Section 8.2 and Appendix A](#), Department of Behavioral Health and Development Services.
- Document these processes in OASIS.

6.15.3 Residential facility requirements

Children in foster care shall only be placed in residential facilities and group homes that meet the following criteria:

- Licensed by VDSS, the Virginia Department of Behavioral Health and Developmental Services (VDBHDS), or the licensing authority in the state where the facility is located. To verify that a children's residential facility is currently licensed in Virginia:
 - See [VDSS SPARK page](#) or contact the Child Welfare Unit of the Division of Licensing Programs at (804) 662-7053.
 - See [VDBHDS website](#) or contact the Office of Licensing at (804) 786-1747.
- Listed in the CSA service fee directory unless the licensed facility offers room, board and services at no charge to the LDSS.
- Not among the facilities licensed by VDSS under the Minimum Standards for Licensed Child Caring Institutions that statutorily cannot receive public funds ([§ 63.2-1737](#)). To obtain a current listing of licensed child caring institutions (CCIs), contact the Child Welfare Unit of the Division of Licensing Programs at (804) 662-7053.
- Has a written agreement with the LDSS prior to placement ([§ 63.2-900](#)).

6.15.4 Facilities with provisional licensure status

When a group home or residential facility is granted a provisional license due to its failure to fully satisfy all state licensing standards, then children placed in the facility are not eligible for Title IV-E foster care maintenance payments. The group home or residential facility is eligible for Federal financial participation when it comes into full compliance with the state's licensing standards ([Social Security Act, Title IV, § 471\(a\) \(10\) \[42 USC 671\]](#)) and the Federal Child Welfare Policy Manual, Questions and Answers on the Final Rule 65 FR 4020, dated 1/25/00).

LDSS shall not place children in a group home or residential facility using CSA state pool funds when its licensure status is lowered to provisional as a result of multiple health and safety or human rights violations. No additional children shall be placed in the provisionally licensed facility until the violations and deficiencies related to health and safety or human rights that caused the designation as provisional are completely remedied and full licensure status is restored. The LDSS shall assess all children it placed in the facility prior to the licensure status being lowered to determine whether it is in the best interests of each child to be removed from the facility and placed in a fully licensed facility ([§ 2.2-5211.1](#)).

6.15.5 Requirements for placing child in out-of-state residential facility

Prior to placing a child under the age of 18 in an out-of-state residential facility, the service worker shall obtain approval from the Virginia Interstate Compact on the Placement of Children (ICPC) Office (see [Section 6.16.3](#) about placing a child outside of Virginia).

The following documentation shall be submitted to the Virginia ICPC Office to obtain approval for these placements:

- Completed and signed 100A by either the LDSS or parent(s) as applicable. For parental placements, the ICPC 100A shall reflect the parent(s) as the sending entity having both the planning and financial responsibility for the child, and shall be signed by the parent(s).
- Copy of child's acceptance letter into the facility.
- Documentation of the child's current behaviors and needs. For placements being made by the LDSS:
 - Documentation of the specific reasons that the LDSS is pursuing placement of the child into an out-of-state residential facility rather than placing the child residentially within the State of Virginia (to include the facilities that were considered in Virginia and reasons the child is not being placed in-state).
 - Confirmation that FAPT staffing has been held and CSA funding has been approved for the out-of-state residential facility.
- Court order showing compliance with Article VI of the ICPC if the child is an adjudicated delinquent.
- Copy of the court order that confirms the child is in the legal custody of a LDSS, if applicable.
- Copy of the child's recent psychiatric evaluation, psychological evaluation, or therapists' report, if available.

6.15.6 Services during residential placement

6.15.6.1 Roles and responsibilities of LDSS

While children are placed in a residential facility:

- Service workers shall work collaboratively with the FAPT and the provider of intensive care coordination services through the Community Services Board to implement a plan for transitioning the child to his or

her home, relative's home, family-like setting, or community at the earliest appropriate time that addresses his or her identified needs. The plan should identify public or private community-based services to support the youth and family during transition to community-based care, building on the strengths of the youth and family.

- Service workers shall conduct a meaningful face-to-face visit with the child in residential care at least monthly. The visit shall occur in the residential facility more than 50 percent of the time. The purpose includes, but is not limited to:
 - Ensuring appropriate care is being given.
 - Ensuring the implementation and continued suitability of the treatment plan.
 - Keeping all parties informed of any and all actions and/or progress in the case.

Children placed in emergency temporary care facilities shall be visited at least once a month and more often if needed. These contacts shall be documented in OASIS on the contact screen.

- Service workers shall continue contact with and services to the parents while the child is in residential care. The LDSS and the facility shall encourage and assist with, where possible, visits between the child and parents. The parents shall be kept informed of their child's progress and needs while in placement.
- Service workers shall assess all children they placed in a facility using CSA funds when the facility's licensure status is lowered to provisional as a result of multiple health and safety or human rights violations. The service worker shall assess the best interests of the children and make recommendations to the FAPT. The CPMT shall make the final determination as to whether the children should be removed from the facility and placed in fully licensed facilities ([§ 2.2-5211.2](#)).
- Arrange for or provide services to transition the child from the facility back to the community.
- Ensure that local purchase of service procedures is followed.

6.15.6.2 Roles and responsibilities of residential facilities based on licensing standards

- Comply with the “Children’s Residential Facilities Agreement: Code of Ethics and Mutual Responsibilities” (see [Section 6.7.5.2](#)).
- Prepare a plan for the child **within 30 days** of child's placement in the residential facility. This plan shall provide goals and objectives for meeting the needs of the child. This plan should include transition services that will help the child to return to parent/community within a specified time as defined in the service plan.
- Notify the LDSS of the child's progress and behaviors, including any serious incident, while the child is in residential care through regular reports.
- Coordinate treatment services for the child.

6.15.6.3 Returning child to family and community

In order to ensure the successful return of the child to the home/community, the service plan should include treatment objectives, timelines, and outcomes. Supportive services shall be identified and provided to the child and family when the child returns to the community.

Service workers should work collaboratively with FAPT and the provider of intensive care coordination services through the Community Services Boards. The purpose of intensive care coordination services is to safely and effectively transition or return the child home or to a relative’s home, family-like setting, or community at the earliest appropriate time that addresses the child’s needs.

6.15.7 Paying for care in a residential facility

- The cost of maintenance for a child placed in a residential facility is paid from SSI, Title IV-E, Medicaid (called room and board), or state pool funds for non-Title IV-E children.
- Title IV-E cannot be used to pay the cost of maintenance of a child in a public facility licensed for more than 25 children. State pool funds shall be used.
- Services provided in a residential facility will be paid from Medicaid or state pool funds. Residential services that can be purchased include services provided to every resident and specialized services provided to meet a child's individual needs.

- Rates for maintenance and services shall be the rate negotiated between the provider and purchaser. The purchaser shall negotiate a rate that specifies the amount to be paid for maintenance. The purchaser shall also require providers to use invoices *that reflect information from the residential financial agreement* and clearly delineate line items using language from the federal definition of maintenance. Ambiguous language that does not clearly communicate that a charge is allowable based on the federal definition of maintenance, shall not be paid for by Title IV-E funds even if the child for whom the charges are being made is Title IV-E eligible.
- The facility shall be listed in the [CSA Service Fee Directory](#). The facility will list the maximum rate it will charge in the Directory. Lower rates may be negotiated.

6.15.7.1 Requirements for Medicaid funding

To be eligible for Medicaid funding for a children's residential facility, the LDSS, provider, and facility should fulfill the following responsibilities prior to admission.

The LDSS is responsible for:

- Referring the child to the facility.
- Preparing the Certificate of Need signed by FAPT members.
- An independent physician shall certify that outpatient care does not meet the specific needs of the child, proper treatment of the child's condition requires services on an inpatient basis under the direction of a physician, and services can reasonably be expected to improve the child's condition to prevent further regression.
- Provide a copy of the latest CANS (within 90 days).
- Coordinate with the facility for the Initial Plan of Care.
- The plan shall include the following: diagnosis, symptoms, description of the functional level of the child, treatment objectives with short and long-term goals, orders for medication and treatments, plans for continuing care including reviews and discharge plans.
- Forward to the receiving facility all relevant background and treatment history.
- Negotiate a reimbursement rate and provide the CPMT signature on the Rate Certification Form.

The provider is responsible for:

- Being certified/enrolled as a Medicaid provider.
- Developing with the LDSS the Initial Plan of Care.
- Completing the approved preauthorization forms.
- Negotiating a payment rate with locality.
- Notifying the CPMT/FAPT of Medicaid approval or denial.

Under Medicaid, reviews shall be completed for residential placements **every 30 days**.

6.15.7.2 Absence from a residential facility

- Title IV-E prohibits paying for unscheduled absences and the costs of these absences *if the absence is for more than 14 days*. LDSS shall not incorporate costs beyond 14 days into the rate negotiated with the residential facility. Unscheduled absences include running away (for more than 14 days), emergency hospitalization, and other unanticipated absences.
- Title IV-E will pay for absences less than 14 days. A full month's Title IIV-E foster care maintenance payment should be paid to the licensed provider, if the brief absence does not exceed 14 days and the child's placement continues with the same provider.
- Title IV-E will pay for scheduled absences, which are planned absences that include home visits (*this does NOT include Trial Home Visits*), vacations, planned hospitalizations, and special reintegration services to return a child to his own community. The purpose of reintegration is to return the child to his family or to a foster home in the child's own community. The cost of scheduled absences can be incorporated into the rates negotiated between the purchaser and provider.

6.15.7.3 Paying for incidentals in residential care

- If the room and board rate negotiated with residential facilities or group homes does not include maintenance costs, such as clothing, allowance, and known personal incidentals, the amount for these items should be paid monthly to the facility on behalf of the child according to the established rates for clothing (see [Section 17.1.3](#)) and pre-established, contracted reasonable rates.

- For other personal incidentals expenses, the LDSS may *negotiate*, authorize and reimburse the facility according to "as charged" bills. When this option is selected, the LDSS shall pre-authorize the personal care items and predetermine the funding sources for these items. The facility shall provide receipts verifying the purchases. *Title IV-E funds shall only be used for allowable IV-E costs.*

6.16 Placements across jurisdictions

6.16.1 Placing child in another political jurisdiction

When a child is to be placed in a home in another political jurisdiction within the state and the LDSS in that community has not approved that home, the LDSS holding custody shall:

- Notify the LDSS in the locality where the home is located that the home is being considered for the child's placement.
- Conduct a study and approve the home or request that the LDSS in the receiving locality study and approve the home.
- Request that the LDSS in the receiving locality supervise the child or notify them that the LDSS holding custody will supervise.
- Notify and collaborate with the school in which the child is enrolled at the time of placement to determine the child's best interest for school placement (see [Section 6.17](#)).
- Arrange for transportation and payment of reasonable travel costs for the child to remain in the same school if in the child's best interest (see [Section 6.17.2.1](#)), or ensure the child is immediately enrolled in the school of residence for the new placement **within 72 hours** of placement (see [Section 6.17](#) for school enrollment requirements).

If more than one LDSS is placing a child in the same home in another political jurisdiction within the state, and the LDSS in the jurisdiction has not approved that home, each LDSS that places a child in the home shall follow the procedures above.

6.16.2 Transferring custody of child to another LDSS

If LDSS is considering transferring custody of a child to another jurisdiction because the parent(s) or guardians have moved to that jurisdiction or because an employee of the LDSS with custody wants to become the foster/adoptive parent of the child, a determination shall be made that it is in the best interests of the child to transfer custody. The LDSS holding custody shall consult with the LDSS in the other jurisdiction prior to petitioning the court to transfer custody. LDSS may petition the

court to transfer commitment of a child to the custody of another LDSS where the child, his parent(s) or guardians, or relatives reside when it is in the best interests of the child to transfer custody. The LDSS in the other community does not have to accept custody until given reasonable notice and opportunity to be heard by the court.

6.16.3 Placing child outside Virginia

Before a child in foster care is placed outside of Virginia in another state, the service worker shall obtain approval from the Virginia ICPC Office. The purpose of the Interstate Compact on the Placement of Children (ICPC) is to ensure that children placed out-of-state are placed in approved settings and receive continuing services and supervision necessary to ensure that their placements are appropriate and safe (§ 63.2-1000 et.seq.).

Refer to the following websites for specific ICPC guidance and procedures:

- [DSS Spark page](#)
- [DSS public website](#)

The ICPC request for the proposed placement *shall* always be submitted to the Virginia ICPC office prior to making an out-of-state placement. The LDSS shall submit the following information to the Virginia ICPC office:

- [Social Worker Statement Regarding Proposed Placement Resource Form](#). *This form will assist workers in determining whether a proposed placement may be appropriate before completing the entire ICPC packet.*
- The completed and signed [ICPC-100A form](#), which is the formal contract between the sending agency and the receiving state. For a sibling group, five (5) copies of the 100A are required for each child.
- The complete ICPC referral packet. Reference the ICPC Referral Checklists available on the ICPC website.
- The [ICPC-100B form](#), submitted in a timely manner, is used to either reflect the date of the child's placement with the out-of-state resource, thereby initiating supervision of the placement in the receiving state (Section II of the 100B), or to close the ICPC case (Section III of the 100B).
- *For the IV-E eligible child, licensing requirements must be met by the receiving state to continue Title IV-E eligibility.*

6.16.4 Receiving a child into Virginia (ICPC cases)

Before a child in foster care can be placed in Virginia from another state, the sending state shall make a request for services through the Virginia ICPC office. The purpose of utilizing ICPC is to ensure that children placed in Virginia are placed in approved settings, receiving continuing services and supervision necessary to ensure their placements are appropriate and safe.

Virginia does not restrict local agencies' abilities to contract with private entities to conduct home studies and other related services.

Caseworkers and other child welfare authorities in the receiving state will act on reports of child abuse and neglect involving children placed from out of state in the same manner that reports of child abuse or neglect are acted upon when children in Virginia are involved.

6.16.4.1 Receiving an ICPC case

When a LDSS receives a request from the ICPC office for a home study for a potential resource placement for a child from out of state, the service worker should accomplish the following:

- *Review all packet information received from the Virginia ICPC office.*
- *Request (by fax, phone or email) any additional information from the sending state, if needed, from the child's service worker.*
 - *Send copies of any new documents to the Virginia ICPC office*
- *Communicate with the child's service worker to discuss any issues related to the provision of services and support in Virginia (i.e. school tuition requirements, eligibility for medical assistance, post adoption services) for the child and family.*
- *Engage the family in the home study process. The service worker has 60 days from the date of the request from the sending state to complete the home study for the purpose of assessing the safety and suitability of placing the child in the home.*
- *The service worker shall use the guidelines provided for approving a home and the format of the mutual family assessment to complete the study. (See the [Local Department Resource, Foster and Adoptive home Approval Guidance](#)).*
- *The contents of the study shall address the extent to which the placement in the home would meet the needs of the child.*

- *Include a clear recommendation approving or denying the family home study and placement for the child. If the study is denied, the child cannot be placed.*
- *Forward 3 copies with a cover letter of the home study with recommendations and supporting documentation to the Virginia ICPC office.*

6.16.4.2 When the placement is approved

Children placed in Virginia with a placement resource shall be supervised and provided services in the same manner in which foster care services are provided in all cases.

Supervision of the placement begins after the placement has been approved by the ICPC office and the sending state of the child notifies the ICPC office that the child has been placed with the approved placement resource.

The first face to face contact with the child should occur as soon as possible but no later than 30 days from the service worker's notification that the child is placed in Virginia.

Face to face contacts with the child and the child's placement resource shall occur with the same frequency and in the same manner that face to face contacts occur with foster care children in Virginia. (See [Section 16.8](#)). At a minimum these contacts shall occur monthly as required by federal law and should be well planned and focused on issues pertinent to case planning and service delivery to ensure the safety, permanency and well being of the child. Contacts should occur at the child's residence as often as possible and be made by the service worker assigned to supervise the placement as much as possible.

The service worker during visits should assist the family in staying focused on the achievement of the child's case plan goals established by the sending state and to assist the child and family in achieving those goals.

The sending state bears ultimate financial responsibility for meeting the needs of the child and supporting the child's placement. The service worker should assist the child and the child's placement resource in accessing services and supports that are available and can be provided by Virginia, such as health care, mental health services, public assistance, educational services, etc.

6.16.4.3 Providing a written report

At least once every 90 days the service worker shall prepare a written report with regard to the child's placement and forward 3 copies to the ICPC office. At a minimum the report should include:

- *Dates and locations of face to face contacts with the child*
- *A summary of the child's current situation, including a statement regarding the on-going safety and well being of the child in placement, include a description of any safety concerns*
- *A summary of the child's current school performance (include copies of IEP documents, educational evaluations, report cards, or other school records if available).*
- *A summary of the child's current health/medical/mental health status, including dates of any medical, dental, appointments and the identity of the health care provider seen (include copies of evaluations, reports or other pertinent records).*
- *A description of any unmet needs and any recommendations for meeting identifiable needs*
- *Where applicable, the service worker's recommendation regarding any of the following:*
 - *Continuation of current placement*
 - *Return of custody to parent and termination of sending state's jurisdiction*
 - *Finalization of adoption*
 - *Granting custody to the existing caretaker*

6.17 School placements

For children and youth in foster care, a change in foster care placement has frequently resulted in a change in school placement. The educational impact of every school change is significant. Each time children enter new schools they must adjust to different curricula, different expectations, new friends, and new teachers. These changes may create several negative outcomes for children placed in foster care:

- *They may make less academic progress, falling behind their peers.*

- *They may experience less opportunity for academic achievement, increasing the risk for dropping out of school.*
- *They may face challenges in developing and sustaining supportive relationships with teachers and peers.*

Keeping children in the same school:

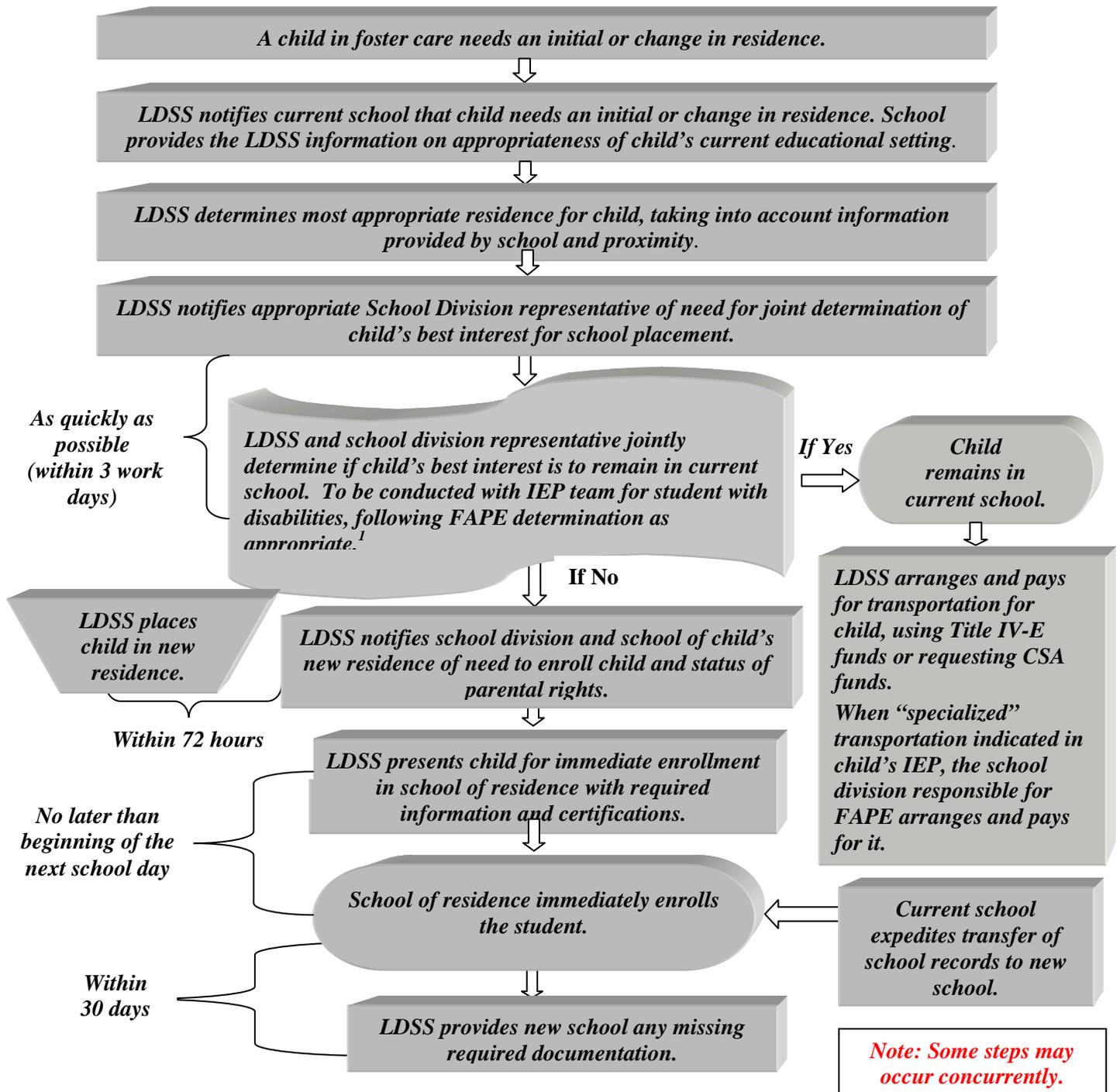
- *Provides continuity in education.*
- *Maintains important relationships at school.*
- *Provides stability during a traumatic time for the children.*
- *Improves educational and life outcomes.*

The joint guidance document, [Virginia Department of Education and Virginia Department of Social Services Fostering Connections: Joint Guidance for School Stability of Children in Foster Care](#), represents collaboration of these two State departments to promote school stability for children in foster care. This section provides guidance consistent with the joint guidance. The joint guidance may also be found on the Virginia Department of Education's website under [Enrollment of Students in Foster Care](#).

The joint guidance applies to all school age children in both initial and subsequent foster care placements. The joint guidance requirements also apply when the parent retains custody of the child and has entered into a noncustodial foster care agreement with the LDSS to voluntarily place the child in foster care.

When the LDSS is considering placement of a school age child in a new residence (i.e., foster care placement), the flow chart on the next page provides a visual summary of the sequence of activities and timeframes for the school placement process.

School Placement Process for Child in Foster Care



¹ This provision and the subsequent provisions in this document apply also to students with disabilities who are served under a 504 Plan pursuant to the Rehabilitation Act of 1973, as amended. (FAPE) refers to Free & Appropriate Public Education.

6.17.1 Determining child's best interest for school placement

After the LDSS determines the most appropriate home for a school age child (see [Section 6.3](#) through [Section 6.7](#)), the LDSS and the school division shall work together to jointly determine the child's best interest for school placement. For general education students and for students with disabilities (after the free and appropriate public education (FAPE) determination is made that the child can be enrolled in either school), the service worker and appropriate school division representative/Individualized Education Program (IEP) team shall work together to determine the child's best interest for school placement and ensure educational stability for the child.

The presumption is that the child will remain in the *current* school where the child was last enrolled at the time of the foster care placement to provide school stability and educational continuity for the child, unless contrary to the child's best interests. The service worker and school division representative/IEP team, in collaboration with the child and other key partners, make a determination as to whether the child should:

- Remain in the school where the child was enrolled at the time of placement in the new residence, taking into account the appropriateness of the educational setting; or
- Change schools and enroll in the school of residence for the child's new foster care placement, if remaining in the *current* school is not in the child's best interests. The service worker and the school division shall ensure that the child is immediately and appropriately enrolled in the new school. The *current* school shall provide all educational records to the new school ([Social Security Act, Title IV, § 475 \(1\) \(G\) \[42 USC 675\]](#)). The educational records should be received within five days of enrollment. See [Section 6.17.2.2](#) on school enrollment requirements.

When placing the school age child in a foster care placement, the LDSS shall document in writing the joint determination with the appropriate school division of whether it is in the child's best interest to remain enrolled in the child's current school ([§ 63.2-900.3](#)). The [Best Interest Determination for Foster Care School Placement Form](#) should be completed as quickly as possible (e.g., **within three (3) business days**) after the service worker notifies the school division of the child's new placement.

The joint determination for school placement must not delay the child's foster care placement in the new residence. If the joint determination process cannot be completed prior to the placement in the new residence (e.g., an emergency placement to ensure the child's safety), the presumption is that the child will remain enrolled in the current school, until the best interest determination process is completed.

For general education students:

- *The LDSS shall contact the child's current [school division foster care liaison](#) to convene the best interest determination meeting.*
- *The LDSS and the school division foster care liaison where the child is enrolled coordinate to jointly determine the child's best interest for school placement, in consultation with the child and other key partners.*
- *The child should remain in the current school, unless contrary to the child's best interests.*

For students with disabilities served under the Individuals with Disabilities Education Act (IDEA), the responsibility for school placement determination and the mechanism for making the determination are driven not only by the Fostering Connections Act, but also by state and federal regulations under IDEA. Thus, in determining which school division to involve in the best interest determination, the school division and LDSS must determine which school is responsible under IDEA for the student's free and appropriate public education (FAPE), and the student's IEP team must participate in the determination.

- *When the special education child's new residence is in the current school division, the LDSS must contact the child's current [school division foster care liaison](#) to convene the best interest determination meeting. The child should remain in the current school unless contrary to the child's best interest. If a change in school placement is being considered, the IEP team from the child's current school, along with the school division representative, determines where the child can receive FAPE. If the child can receive FAPE in both settings, the IEP team, school division representative, and LDSS service worker collaborate on the best interest determination. If the child cannot receive FAPE in both schools, the child must be enrolled in the school where FAPE can be provided. The child's IEP team at the child's current school should be engaged in the best interest determination.*
- *When the special education child's new residence is in a different school division, the LDSS must contact the [school division foster care liaison](#) where the child is currently enrolled, and the school division foster care liaison for the child's new residence to convene the best interest determination meeting. Virginia's IDEA regulations provide that the school division where the child's new residence is located is responsible for FAPE. In these cases, an IEP team designated by the new (receiving) school division must be convened to participate in the best interest determination, as well as determine what constitutes FAPE for the child. If, however, the IEP team in the school division where the child's new residence is located determines that the child needs to be placed in a private day or residential facility for educational reasons, the responsibility for FAPE shifts back to the child's current (sending) school*

division. Then that school division participates in the best interest determination process. The child stays in the current school during the best interest determination process.

Both Fostering Connections and the Virginia statutory provisions regarding educational stability support the need for collaboration between the sending and receiving school divisions to ensure educational stability for the child.

6.17.1.1 Engaging child in school placement determination

The service worker should engage the child in discussions to:

- Solicit his or her wishes related to school placement.
- *Address constructively* any concerns the child may have.
- Discuss the benefits of having someone attend the meeting to help ensure his or her wishes are communicated.
- Ask who the child would like to attend the meeting. The service worker should arrange for this person's participation in the meeting.

6.17.1.2 Engaging other key partners in determining child's best interest for school placement

Essential members *of the team determination process for general education students* include the:

- Child.
- Child's birth parent(s) or prior custodian.
- Individual(s) the child would like to participate.
- Service worker.
- School *division* representative/foster care liaison.

For student with disabilities, the LDSS service worker and the [school division foster care liaison](#)(s) must determine the parent for special education purposes in order to convene the child's IEP team (§ [22.1-213.1](#)). Some or all of the noted individuals may be included in accordance with the [Regulations Governing Special Education Programs for Children with Disabilities in Virginia](#) (8 VAC 20-81-110).

The service worker and the school division representative/*foster care liaison* should make all reasonable efforts to involve other individuals who have

knowledge of the child to attend and participate in the best interest determination meeting. *The best interest determination meeting may occur during an IEP meeting for student with disabilities. Participation for IEP meetings may occur through teleconferences or other electronic means, and participants other than those required to attend under applicable special education regulations may submit written information. For general education students, participation may also occur through phone calls, teleconferences, emails, or other electronic means.*

To share the workload, the service worker *and the school division representative/foster care liaison* may want to involve or consult with the following key partners *in the best interest determination*, as appropriate.

The service worker may involve:

- The child's birth parent(s) or prior custodian.
- Other family members.
- Resource parent(s) or current placement provider, *and other service providers.*
- Guardian ad litem.
- Other adults who are significant for the child and family.

The school *division* may involve:

- A school division representative from the school of residence for the child's new *foster care placement* or the child's *current* school at the time of placement, as applicable.
- Classroom teachers.
- School social workers.
- School counselors.
- Special education *and related service personnel, as appropriate.*
- Coaches.

6.17.1.3 Factors to assess in child's best interest determination

The child's safety and permanency plan shall be paramount in decision making, *based on federal and state law.*

Additional factors to assess in determining the child's best interests for school placement include, but are not limited to, the following:

- The preferences of the child, the birth parents or prior custodians as appropriate, and the resource parent(s) or current placement provider of the child.
- School stability and educational continuity for the child, as well as time in the school year and distance from the child's current school to the new *foster care* placement.
- Personal safety, attendance, academic progress, and social involvement of the child in the current school.
- The impact transferring the child to a new school may have on the child's needs and progress academically, emotionally, socially, and physically.
- Solutions addressing any practical issues identified, such as travel to the child's current school from the new placement.

The [Best Interest Determination for Foster Care School Placement Form](#) should be used to assist the service worker and school *division* representative in *jointly* determining the child's best interest for school placement. This form provides a series of questions that should be considered during the determination process.

6.17.1.4 Documenting school placement process and determination

The service worker shall document the best interest determination in the child's case plan, including factors considered, participants involved in the collaborative process, the team's determination for school placement, and the placement made. The [Best Interest Determination for Foster Care School Placement Form](#) documents compliance with federal and state law and shall be maintained in the *child's foster care paper case record* and the school's student cumulative record. If a change in *school* placement is determined to be in the child's best interest, the school *where the child was previously enrolled* must send this documentation to the new school as part of the student's cumulative record.

6.17.2 Subsequent actions implementing best interest determination

After the LDSS and the school division jointly determine the child's best interest for school placement, subsequent actions are taken to implement the determination. Either:

- *Arranging and funding school transportation for the child to remain in his or her current school (see [Section 6.17.2.1](#)); or*
- *Immediately enrolling the child in the school of residence for the child's new foster care placement (see [Section 6.17.2.2](#)).*

6.17.2.1 Arranging and funding transportation to remain in current school

When the LDSS and the school division jointly determine the child's best interest is to remain in the current school in which the child was enrolled prior to entry into foster care or prior to a placement change:

- *For general education students and for students with disabilities who use regular school transportation, the LDSS shall arrange for transportation and payment of transportation expenses, using Title IV-E funds or requesting CSA state pool funds (see [Section 6.17.2.1.1](#)).*
- *For students with IEPs that require "specialized" transportation, including transportation to a private school program, the responsible school division arranges and pays for transportation (see [Section 6.17.2.1.2](#)).*

The youth are transported without any interruption in attendance.

6.17.2.1.1 Regular school transportation

For the general education student and the student with disabilities who use regular school transportation, when it has been jointly determined that the child's best interest is to remain in the child's current school, the LDSS shall arrange for transportation and payment of transportation expenses.

Under these circumstances, funding for regular school transportation is available as a legitimate maintenance expense. These payments are made in addition to the basic maintenance payments made on behalf of the child.

Reasonable *and necessary* transportation costs for the child to remain in his or her current school shall be paid from:

- *Title IV-E funds for eligible children, consistent with federal and state law/policies.*
- *State pool funds through CSA for non-Title IV-E eligible children, consistent with state law.*

The LDSS should consider a wide range of options for providing transportation by providers who ensure the child's safety and well-being.

Options include reimbursing foster parents, friends, relatives, neighbors, and employees of child placing agencies and residential programs at the state mileage rate. The local school division's school transportation fund may be reimbursed when there is a signed agreement/contract (see [Section 13.7.1](#)) on travel for youth in foster care).

For more information on funding transportation costs, see [Section 13.17.2](#).

6.17.2.1.2 “Specialized” transportation in child’s IEP

When a youth entering or in foster care has an IEP that *requires* “specialized” transportation to the *current* school, such transportation costs are paid for by the *school division responsible for a free appropriate public education (FAPE)*. “Specialized” transportation includes individualized provisions, noted in the IEP, that are needed because of the student’s disability and *that are* necessary to guarantee access to a FAPE. Examples include the following:

- *Student requires transportation to a private school program (i.e., private day or private residential school).*
- Student requires physical accommodations/modifications (e.g., car seat or security devices such as harnesses, brackets, restraints, seatbelts, vests, etc.).
- Student requires specialized equipment such as special or adapted bus, lift, or ramp.
- Student requires a bus *with* two-way radio, phone, or other equipment in case of emergency.
- Student requires specialized services including personnel to provide assistance or supervision (e.g., aide).
- Student requires necessary medical equipment to perform procedures on the bus.
- Student requires alteration to school or bus schedule (e.g., partial day attendance, shortened bus ride, etc.).

Neither Title IV-E nor CSA funds may be used to pay for services outlined in an IEP.

Clarifying that specialized transportation costs for youth with an IEP is the school division’s responsibility, does not change any other requirements for the LDSS and *local school division* to work collaboratively to ensure youth

receive uninterrupted education services at the school determined to be in the youth's best interest.

6.17.2.2 Enrolling child in new school

When the LDSS and the school division jointly determine the child's best interest is to immediately enroll the child in the school of residence for the child's new foster care placement, the LDSS should follow the procedures described in this section.

6.17.2.2.1 Notifying new school of need to enroll child

Within 72 hours of placing a school age child in an initial or different foster care placement, the LDSS or LCPA shall in writing:

- Notify the principal of the school in which the child is to be enrolled and the superintendent (*or designee*) of the relevant school division of the placement.
- Inform the principal of the status of the parental rights of the child's parents ([§ 63.2-900 D](#)).

The LDSS or LCPA should submit the [Notice of Student Receiving Foster Care Services Form](#) which provides these notices to the school.

The mandated time frame for notification may overlap and/or dictate the time frame for determining the child's best interest for school placement, depending upon when the child is placed in the new residence.

When the timing of the LDSS' official notification of the need to enroll the child and LDSS's presentment of the child to the school for immediate enrollment coincide, the [Immediate Enrollment of Child in Foster Care Form](#) may be used for both purposes. This form meets all legal requirements for LDSS notification and minimum legal requirements for school enrollment (see [Section 6.17.2.2.2](#)). In such circumstance, copies of *the* completed *immediate enrollment* form shall be provided to the school for the superintendent (or designee) and the principal to comply with state legal requirements, *in addition to other parties*.

6.17.2.2.2 Enrolling child immediately and appropriately

The child shall be immediately and appropriately enrolled with all educational records provided to the new school ([Social Security Act, Title IV, § 475 \(1\) \(G\) \[42 USC 675\]](#)). *The child shall be enrolled as soon as possible but no more than 72 hours after placement ([22 VAC40-201-50 D](#)).* Delays in continuous enrollment in school are not in the best interest of the

child, and both federal and state laws prohibit delaying the child's on-going education.

- "Immediate" means ***no later than the beginning of the next school day*** after the presentment for enrollment.
- "Presentment" means the person enrolling the child has appeared at the school and presented all required information and certifications (§ [22.1-3.4](#)).
- "Enrollment" means the child is attending classes and participating fully in school activities.

The CPA who has custody of the child and who is presenting the child to the school for immediate enrollment should submit the completed [Immediate Enrollment of Child in Foster Care Form](#) to the school *which provides all required information to immediately* enroll the child. *This form should be printed on yellow paper to alert the school and distinguish it from other documents.*

The [Immediate Enrollment of Child in Foster Care Form](#) documents the minimum legal requirements for immediately enrolling the child. The person enrolling the student provides a written statement *with the child's name and address and to the best of the person's knowledge: the child's age, and the following* required certifications:

- *Whether the child has or has not been expelled from attending school at a private or public school division of the Commonwealth or in another state for an offense in violation of school board policies relating to weapons, alcohol or drugs, or for the willful infliction of injury to another person.*
- *Whether the child has been found guilty of, or adjudicated delinquent for, any criminal acts listed in § [16.1-260 G](#) or any substantially similar offense under the laws of any other state, the District of Columbia, or U.S. territory. The notification shall include the nature of the offense (§ [22.1-3.2](#)).*
- *That the child is in good health and is free from communicable or contagious disease (§ [22.1-3.4](#)).*

The form also provides necessary information to ensure a smooth transition and affirmation of educational continuity for the child and school.

Should the child have been involved in any offenses, the CPA should communicate with the school division and provide information regarding any

rehabilitative efforts made or completed by the child to prevent the occurrence of any further offenses.

Upon presentment of the *immediate enrollment form* or the *minimum legal requirements*, the new school shall immediately enroll the child **no later than the beginning of the next school day**. If, despite all reasonable efforts, school officials are unable to enroll the child by the beginning of the next school day following presentment for enrollment, the student shall be enrolled **no later than the second school day** following presentment. In such instances, school officials document reasons for the delay and attach this information to the [Immediate Enrollment of Child in Foster Care Form](#).

The sending and receiving school *division representatives* shall expedite the transfer of the student's record (§ 22.1-289 and the [Regulations Governing Special Education Programs for Children with Disabilities in Virginia](#), as applicable).

The CPA shall provide the *following* documentation required for enrollment when available, including the child's:

- Birth certificate (§ [22.1-3.1 A](#)).
- Proof of immunization (§ [22.1-271.2](#)).
- Pre-school physical examination (§ [22.1-270](#)).

If these *three required* documents to enroll the child in school are not immediately available when the CPA assumes custody or changes placement of the child, the CPA shall obtain and produce, or otherwise ensure compliance with these requirements, **within 30 days** after enrollment of the child (§ [63.2-900 D](#)).

For students with disabilities, the school division responsible for the child's IEP and FAPE must ensure that the child receives FAPE even if the required enrollment documents are not immediately available ([8 VAC 20-81-30.D](#)). Additionally, the school division must also ensure that any related IEP requirements are followed, including as necessary, the requirements of Prior Written Notice, and notices of IEP meetings.

The LDSS shall retain a copy of the [Immediate Enrollment of Child in Foster Care Form](#) for the child's *foster care paper case record*. Copies should be provided to the birth parents, prior custodians, and/or the foster, adoptive, or resource parent(s), as appropriate. The school retains the form in the student's cumulative record.

6.17.3 Resolving school placement disputes

It is the responsibility of the LDSS and the school division to collaborate in *the child's best interest* in determining school placement and to resolve any conflict concerning the school placement determination.

If the school *division* representative/*foster care liaison* and the LDSS service worker do not agree on the child's best interest for school placement, the child **remains** in the school in which the child was enrolled at the time of the foster care placement until the school placement issue is resolved. *For responsibilities on arranging transportation and payment of transportation expenses for the child to remain in the current school, see [Section 6.17.2.1](#).*

The LDSS and the school should use the *procedure delineated below* for resolving school placement disputes.

- **Within five (5) business days** of the best interest determination meeting, the LDSS supervisor and the school *division* administrator work together, review the best interest determination documentation, and resolve the dispute.
- If the school *division* administrator and LDSS supervisor do not agree on the child's best interest for school placement, a written request *is* submitted **within the same five business days** to the school division superintendent (or designee) and the LDSS director (or designee) for a review of the best interest determination documentation. The written request *includes the completed [Best Interest Determination for Foster Care School Placement Form](#)* which documents:
 - The factors that were considered in determining the school placement that is the child's best interests.
 - The team's determination for school placement.
 - The participants involved.
 - Whether each participant agreed or disagreed with the team's determination.
 - The reasons for agreement or disagreement.
 - Any additional information pertinent to the dispute.
 - Efforts made to resolve the dispute.
- **Within ten (10) business days** following the submission of a written request, the LDSS director (or designee) and the school division superintendent (or designee) review the request, the best interest determination documentation,

- and any additional information pertinent to the dispute. They work together to resolve the dispute.
- If the LDSS director (or designee) and the school division superintendent (or designee) reach consensus regarding the child's best interest for school placement, the LDSS service worker and school *division* representative *are* informed of the decision.
 - If the two parties cannot agree, they should seek guidance and consultation from their respective state agencies. This request *is* submitted **within the ten day timeframe**. The LDSS *submits* this request to the Regional Permanency Consultants. *Local school division representatives submit their requests to the Virginia Department of Education, Office of Student Services.*
 - 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, should resolve the dispute. The LDSS and school make a determination as to whether the child:
 - Remains in the *current* school; or
 - Changes schools and enrolls in the school of residence for the child's new placement, if remaining in the same school is not in the child's best interests. The service worker, school *division* representative and the child's new school shall ensure the child is enrolled appropriately and immediately, with all educational records provided to the new school.
 - All written documentation *is* placed in the child's *foster care paper case record and the student's cumulative record* to be available for any required federal reviews.

Note: 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., a state complaint, mediation, or due process hearing). The IEP team determination, or the determination reached through the special education dispute resolution process is final, and the child must be enrolled in the school that can provide FAPE.

6.17.4 Communicating with school on child's education

The CPA, in collaboration with the birth parent(s) or prior custodians as appropriate, and the resource parent or current placement provider, should:

- Refer the child for an evaluation for determination of eligibility for special education services if he or she is suspected of having a disability.
- Communicate any other special needs or issues the child may have related to school.
- Inform school personnel of foster care requirements, such as regular court dates, the child's permanency plan, and the child's service plan, as appropriate.
- Monitor the child's educational progress through attending conferences with school personnel, report cards, performance evidence, and IEP meetings as appropriate, and through maintaining contact with the foster care placement and birth parent(s) or prior custodians.
- *Inform the school at any time the child is a subject of a petition alleging the child committed, or was adjudicated delinquent for, any criminal acts listed in § 16.1-260 G and provide the nature of the offense.*

LDSS may contact the [School Division Foster Care Liaison](#). The Virginia Department of Education's [Superintendent's Memo #306](#) dated December 10, 2010 recommended that each school division designate a point of contact for students in foster care.

6.17.5 School nutrition programs

The Healthy, Hunger Free Kids Act of 2010 provides categorical eligibility for free meals, without further application for foster care children. The school division should obtain documentation indicating the status of the child as a child in foster care in the placement and care responsibility of the state or that the child in foster care has been placed with a caretaker household by a court.

Prior to the Act, a separate application for free and reduced lunch price meals was submitted for a foster child who was considered a household of one. Now, a foster care child is categorically eligible and may be certified without an application with the appropriate documentation.

Households with foster and non-foster children may choose to include the foster child as a household member, as well as any personal income earned by the foster child, on the same household application that includes the non-foster care children. Information should be relayed to the foster family that the presence of a foster child in the home does not convey eligibility for free meals to all children in the household in the same manner as Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF).

When the local education agency (LEA) is processing a household application, the foster care child will be certified for free meals and then an eligibility determination will be made on the remainder of the household based on the household's income (including personal income earned by the foster child).

Foster payments received by the family from the placing agency are not considered income and do not need to be reported.

6.17.6 Regular education services

The local school division shall provide free textbooks required for courses of instruction for children attending public schools (§ [22.1-243](#)). Other educational services needed by the child and not provided by local school divisions may be purchased using state pool funds. Some educational services may be purchased from independent living funds for youth ages 14 and over.

6.17.6.1 When regular education services may be purchased

- To achieve an educational goal;
- They are not the responsibility of state and/or local education agencies;
- Services are not available without cost; or
- Charges for services are the same to all residents regardless of income.

6.17.6.2 Educational services that may be purchased

- Normal school expenses such as school trips, summer school, gym suits, fees for labs, art classes, etc., and school supplies.
- Tutoring.
- Training for employment if no other resource exists.
- Tuition and fees, school supplies, textbooks required for college degree or vocational education.
- Tuition and fees, etc., for placement in a private school for the child who is not eligible for special education. In this instance, the child's *foster care paper* case record shall document that:
 - All other resources to meet the child's specific need have been explored.
 - These resources have been determined to be inadequate to meet the child's needs.

6.17.6.3 Other school-related expenditures

Expenses related to school activities that are not necessary to meet an educational goal such as class rings, club dues, and prom fees may be purchased from Chafee Independent Living Funds for youth ages 14 years and older, private donations, and local only funds. After all other funding sources are pursued and determined not available, state pool funds may be used based on CPMT procedures.

6.17.7 Special education services

- School divisions are mandated by law to provide, without cost, instruction specifically designed to meet the unique needs of children with disabilities, ages 2 through 21 ([§ 22.1-214](#)).
- A child is determined eligible for special education and related services by an eligibility team at the school. This team uses data gathered through a comprehensive evaluation. The school division may use data provided by the LDSS or other source (e.g., psychological, medical, hearing or vision screenings/evaluation, and sociocultural evaluations). This team makes its decision for such services no later than 65 business days after the referral for the evaluation is received by the division.
- The school division shall develop an individualized education program (IEP) **within 30 calendar days** after eligibility has been determined.

If the child's parent cannot be found or parental rights have been terminated, school divisions are required by law to train and appoint surrogate parents to represent the educational interests of the children, which may include those in the custody of the LDSS. When a surrogate parent is appointed, that individual holds the same rights and responsibilities relative to the child's education as are afforded to parents. Local school divisions may appoint the foster parent as the surrogate parent under certain circumstances. The school division may recognize the foster parent as parent when the child is in permanent foster care. Additionally, the permanent foster care parent shall have an ongoing, long-term relationship with the child, is willing to make the educational decisions required of the parent under the regulations governing special education, and has no interest that would conflict with the child's interests.

- A surrogate parent is not required for a child in a non-custodial placement. The parent or guardian is responsible for requesting services and signing IEPs. The federal Individuals with Disabilities Education Act (P.L. 108-446) prohibits LDSS staff from serving as parents (or surrogate parents) for children in custody.

- If the child's parents (which includes birth parents, adoptive parents, permanent foster parents in the situation described above, or surrogate parent) disagree with the evaluation conducted by the school division, they may request an independent evaluation at public expense.
- If the LDSS or foster parents have any concerns or disagreements about a foster care child's special education program or implementation of the special education procedures, the service workers should first contact the director of special education in the local school division for resolution. If resolution is not achieved at the local level, the LDSS may contact the Virginia Department of Education's Dispute Resolution and Administrative Services unit in the [Division of Special Education and Related Services](#) for more information about mediation, complaints, and due process hearings.

6.17.7.1 Local school responsibility

Local school divisions are responsible for paying for special education services identified on the child's Individual Education Program (IEP) when the child is placed within the school system or regional special education program.

When a child is placed in another jurisdiction, the receiving local school division should seek reimbursement for education costs from the Virginia Department of Education for any children receiving foster care services. (§§ [22.1-101.1](#) and [22.1-215](#)).

6.17.7.2 Length of time child is eligible for special education services

A child is eligible for special education services until he or she:

- Is found to be no longer eligible by an eligibility team;
- Graduates with a regular or advanced diploma; or
- Reaches age 22 by September 30 of the year.

The local school division where the LDSS is located that has custody of the child is responsible for the child's special education services. In the event that a child is placed in foster care in a different jurisdiction and the child can be educated in the public school or a regional program that includes that jurisdiction, the school division where the child is placed is responsible for the child's education.

6.17.7.3 Use of state pool funds for special education services

- State pool funds are to be used to purchase special education and related services for a child placed in a residential facility approved for

special education or private special education day school in accordance with the child's IEP. Related services include such services as developmental day programs, infant/child stimulation, training to maximize independence, and sheltered workshops. Procedures to access state pool funds for these placements will be based upon CPMT policies. Maintenance for Title IV-E eligible children would be paid from Title IV-E funds and from state pool funds for non-Title IV-E children.

- In addition, the [CSA Manual](#) (Section 4.3.3a) specifies how state pool funds may be used to keep a child in a less restrictive special education environment, when the FAPT makes such a determination and includes it on the IFSP.
- If a child is placed in a facility for special education and is subsequently determined ineligible for special education, removal of the child from the facility or continued funding of services for that child in the facility will be based on local CPMT procedures. The LDSS, in coordination with the FAPT, is responsible for ensuring that an appropriate placement is provided for the child.

6.17.7.4 Cross-jurisdictional placements

The cost of purchasing special education and related services, where applicable, for children in cross-jurisdictional placements will be covered by the placing agency's school division through the policies of the CPMT. This also applies to children in permanent foster care placements or adoptive placements prior to the final order. If a child is served in a public school, the receiving school division pays for the services. All special education needs shall be included on the IEP in accordance with federal law.