

1666 EDUCATIONAL PLANNING FOR CHILDREN/YOUTH IN PLACEMENT

Chapter: **Out-of-Home Placements**

Section: **Educational Stability**



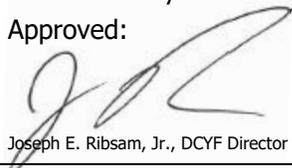
New Hampshire Division for Children, Youth and Families Policy Manual

Policy Directive: **19-21**

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Approved:


Joseph E. Ribsam, Jr., DCYF Director

Related Statute(s): [RSA 169-B](#), [RSA 169-C](#), [RSA 169-D](#), [RSA 170-C](#), [RSA 170-E](#), [RSA 186](#), [RSA 193](#), and [RSA 463](#)

Related Admin Rule(s): [ED 1117](#)

Related Federal Regulation(s): [34 CFR 99.31](#), [SSA 471](#), [SSA 475](#), and [20 USC 6311](#)

Related Form(s): **FORM 1666, FORM 1667, FORM 1668, FORM 1669, and FORM 1693**
Bridges' Screen(s) and Attachment(s):

All children and youth have the right to a free and appropriate education, as well as stability in their educational programming when they are in placement. Whenever a child/youth enters placement through the Department of Health and Human Services pursuant to RSA 169-B, RSA 169-C, RSA 169-D, RSA 170-C, or RSA 463, such child/youth shall have specific case management to support their education and, if of school age, shall be required to attend a public school setting which best meets their needs.

Purpose

This policy establishes procedures to safeguard the educational rights of children/youth in placement and ensures that all children/youth in placement are in compliance with compulsory attendance as required by State Law or supported in enrolling in educational and vocational programming.

Definitions

"BID" or **"Best Interest Determination"** means the process by which it is determined if the child/youth should remain in the school of origin, which is considered in the child/youth's best interest, unless it is determined that the child/youth should change schools for their best interest.

"CASA" or a **"Court Appointed Special Advocate"** means a volunteer who serves as an advocate for an abused and/or neglected child/youth in the New Hampshire court system.

"Child with a Disability" means any child/youth between three (3) years of age and 21 years of age who has been identified and evaluated by a school district according to rules adopted by the State Board of Education and determined to have a disability or impairment as defined in RSA 186-C:2 I which necessitates special education or special education and related services.

"CPSW" or **"Child Protective Service Worker"** means an employee of DCYF who is authorized by the Division to perform functions of the job classification Child Protective Service Worker.

"DCYF" or the **"Division"** means the Department of Health and Human Services' Division for Children, Youth and Families.

"Educational Records" means any document in the possession of DCYF, the Department of Education, or any school district, which is relevant to the identification, evaluation, or educational placement of the child/student or the provision of a Free and Appropriate Public Education (FAPE) of the child/youth. (34 CFR 300.611 (b))

"Family Assessment and Inclusive Reunification (FAIR) Meeting" or "Case Review" means a review of the status of the case including the case plan, the child/youth's safety, well-being, and plans for permanency.

"Guardian Ad Litem" or "GAL" means a court-appointed representative designated to represent the best interests of children legally considered to be incapable of managing their own affairs.

"Home for Children" means any orphanage; institution for the care, treatment, or custody of children; child care agency as defined by RSA 170-E:25, II and III; or any residential school approved under RSA 186:11, XXIX.

"IEP" or "Individualized Education Program" means a written plan for the education of a child/youth with a disability that has been developed by an IEP Team and that provides necessary special education or special education and related services within an approved program. (RSA 186-C:2(III))

"Individualized Education Program Team" or "IEP Team" means a group of individuals as defined in 34 CFR 300.21 and Ed 1103.01, that is responsible for developing, reviewing, or revising an IEP for a child/youth with a disability.

"JPPO" or "Juvenile Probation and Parole Officer" means an employee of DCYF who is authorized by the Division to perform functions of the job classification Juvenile Probation and Parole Officer.

"Least Restrictive Environment" or "LRE" means where a child/youth's IEP is to be implemented, offering a continuum from a modified, regular classroom to an educational residential facility.

"Placement" means the removal of a child/youth from their normal place of residence to reside in a court-ordered substitute care setting under the placement and care responsibility of DCYF. NOTE: For school districts, "placement" means the educational environment where a child/youth with a disability is educated.

"Receiving School District" means the school district in which a home for children, or health care facility is located if a student who is placed therein attends a public school in that district or receives educational services from that district. (RSA 193:27 V)

"School of Origin" means the school that a child/youth attended when permanently housed or the school in which the child/youth was last enrolled.

"Sending School District" means the school district in which a student most recently resided other than in a home for children, the home of a relative or friend in which a student is placed by DHHS or a court of competent jurisdiction, health care facility, or state institution, if the student is not in the legal custody of a parent or if the parent resides outside NH. If the student is retained in the legal custody of a parent residing within NH, sending district means the school district in which the parent resides. (RSA 193:27 IV)

Required Practices

- I. Unless already joined by the Court, the CPSW/JPPO must petition the Court to join the legally liable school district as a party to the proceedings, as soon as possible in the court process when the Court contemplates placement or believes the child/youth has an educational disability.

- A. For children/youth (birth to age 18), DCYF will motion the Court, within 10 days of placement, or immediately upon placement through ex-parte action, to legally join both the sending school district and potential receiving school district, as applicable.
 - 1. This can be done on a separate motion by DCYF or by requesting the Court to take the action in the order.
 - 2. Only public school districts are joined to a case.
 - B. Once joined, the legally liable school district must:
 - 1. Have full access to all records maintained by the Circuit Court; and
 - 2. Hold either an IEP meeting if the child/youth has an IEP and there is a change in placement, or if a change of placement is being considered; or
 - 3. Hold a special education referral meeting as noted in policy 1667 to discuss whether the child/youth should be evaluated for special education (Ed. 1117.05).
 - C. If the child/youth does not have an IEP and no special education referral meeting occurs upon school district joinder, the CSPW/JPPPO must follow-up with the school to ensure that a referral meeting takes place.
 - D. When the Court does not follow the school district's recommendation as to where the child/youth's educational needs can be met, following the meeting as outlined in I-B:2-3 or I-C above, the Court must issue written findings to all parties explaining why the recommendation was not followed.
- II. Pursuant to RSA 169-B:22-a, RSA 169-C:20-a, and/or RSA 169-D:18-a, any placement or change in placement during a case must be communicated to the child/youth's school district **immediately** to support the facilitation of reviewing the Educational Best Interest Determination (BID) Form 1666, and the development of a School Transition Plan for a Child in DCYF Care (Form 1669) for the child/youth if appropriate.
- III. When a child/youth enters [placement](#), DCYF must ensure:
- A. The child/youth will continue in the same school to which the child/youth has already been assigned whenever possible so long as it is in the best interest of the child/youth; or
 - B. If continuation of the same school is not possible or in the child/youth's best interest, then the child/youth shall be immediately enrolled in the new school, which provides similar services as the child/youth was receiving in the last school, in compliance with NH law and rules regarding compulsory education attendance.
 - C. If a child/youth will be placed in a Residential Treatment Program, the child/youth may attend the Residential Treatment Program's non-public school if the child/youth:
 - 1. Is identified as a child/youth with a disability;
 - 2. Is determined through the BID to be best served through the Residential Treatment Program's non-public school; or

3. If the school program is required as part of the admission to the Residential Treatment Program.
- IV. The following steps must be completed by the CPSW/JPPPO for all children/youth entering a placement or changing placements:
- A. Obtain the name and address of the school districts where the child/youth was residing and where the child/youth will be placed (if placement will be in a different district);
 - B. Contact the child/youth's school of origin to notify staff that the child/youth has moved or may be moving to a different placement;
 - C. As soon as the placement change decision has been made, but no later than within five (5) business days, send the Notice to School District of Residential Placement Change, Form 1667, to the sending school district, school of origin (if different from the sending school district), and receiving school district;
 - D. Work with school personnel to develop immediate and long-term educational plans for the child/youth ensuring the child/youth's education is not interrupted;
 - E. Inform the Fiscal Specialist of the placement and notify them if the child is educationally identified (IEP) and is receiving special education services. Also provide the liable school district. Fiscal may request additional information as needed;
 - F. Document contacts, meetings, and discussions with teachers and other school officials, the child/youth (when applicable), and the child/youth's parent(s)/guardian(s) in the Bridges case contact log; and
 - G. Incorporate educational needs into the child/youth's case plan in accordance with policy 1551 Developing the Case Plan and its Requirements.
- V. Before the child/youth changes placement, or within 10 days of removal or an emergency change in placement, the CPSW/JPPPO must participate in the BID discussion convened by the school of origin. The CPSW/JPPPO will coordinate the BID discussion in consultation with the school of origin if there is an appropriate meeting already scheduled by the CPSW/JPPPO.
- A. The discussion must include the following parties to the case:
 1. The parent(s)/guardian(s);
 2. The child/youth (if appropriate);
 3. The CPSW/JPPPO;
 4. The CASA/GAL;
 5. The out-of-home caregiver (which may be the relative caregiver, the foster parent(s), or a representative of a residential treatment program);
 6. The school of origin; and
 7. The potential receiving school district.

- B. This meeting should discuss the factors listed in Best Practice paragraph II- B below to consider what is in the child/youth's best interest.
 - C. The discussion can be held in conjunction with the FAIR meeting, an IEP or special education referral meeting, or another separate meeting, including discussion via e-mail about the various parties' perspectives about the child/youth's educational best interest.
- VI. If the BID is that the child/youth will be changing schools, the CPSW/JPPPO must:
- A. Ensure the completion of the Immediate Public School Enrollment for Child in Care of DCYF (Form 1668) if the parent or guardian does not have legal custody (or if the parent/guardian is unable to immediately enroll the child/youth), and follow-up with the schools to ensure that the sending school district sends school records to the receiving school district or certified educational program;
 - 1. The Family Education Rights and Privacy Act allows transfer of personally identifiable education records of a child/youth to another school to which the child/youth intends to enroll without receiving permission from the parent(s)/guardian(s) or child/youth (34 CFR 99.31);
 - B. Work with the school districts (school of origin and receiving school) to develop a transition plan to minimize the number of placements for the child/youth and to facilitate any change in placement or school assignment with the least disruption to the child/youth's education (RSA 169-B:22-a, RSA 169-C:20-a, or RSA 169-D:18-a); and
 - C. Confirm the child/youth is a full-time student, or is enrolling as a full-time student at the receiving school district or certified educational program.
- VII. If the BID is that the child/youth will remain in their school of origin, the school of origin and DCYF must coordinate transportation services back to the school of origin. (See [practice guidance](#) for considerations)
- A. If there are no alternatives for transportation and the district is willing to cost share, the CPSW/JPPPO must request Supervisor approval for DCYF to agree to the cost share.
 - B. The Supervisor will consider the case circumstances, the transportation alternatives that were explored with the school district, and what the district is willing to do in terms of a cost share.
- VIII. Every six (6) months, or more frequently if appropriate, the CPSW/JPPPO shall ensure that the child/youth's parent(s)/guardian(s) and caregiver(s):
- A. Receive copies of current report cards; and
 - B. Are kept informed of educational progress.
- IX. The parent(s)/guardian(s)' rights to oversee and make decision regarding their child/youth's education shall be recognized and documented over the course of the child/youth's time in placement.

- X. CPSW/JPPOs must include information on the child/youth's educational progress, as well as the efforts made by DCYF and the school district(s) to maintain the child/youth in the school of origin, or if it is not in the child/youth's best interest or feasible, efforts made to minimize educational disruption, in their court reports and Bridges contact logs documentation.
 - A. This information must be reviewed at FAIR meetings or multi-disciplinary team meetings that are regularly convened to review cases.
- XI. When there is reason to believe that a child/youth may be a child with a disability and unless ordered by the Court, the CPSW/JPPO must refer the child/youth to the school district for a special education referral.
 - A. The school district will be responsible for the coordination and funding of any educational evaluations and testing as determined by the IEP Team.
 - B. If the school district determines that the child/youth is not a child with a disability and therefore not identified for special education the child/youth must be placed in the least restrictive setting to maintain compliance with Title IV-E regulations, and federal regulations regarding educational placements.
- XII. CPSW/JPPOs must follow policy 1667 for children/youth in placement who have been identified as a child with a disability.
- XIII. For any child/youth incapable of attending school on a full time basis because of a medical problem, the CPSW/JPPO must document the medical condition in the case plan and Bridges case contact log, and update the information every six (6) months or sooner if there are changes to the child/youth's medical status that affect the child/youth's education.

Best Practice

- I. CPSW/JPPOs support that children/youth are provided an appropriate educational setting with:
 - A. Timely educational planning and services, including immediate enrollment, record transfers, and requests for educational evaluations as deemed appropriate;
 - B. Resources and supports to remove barriers to attendance;
 - C. Support and encouragement to achieve their highest education potential; and
 - D. Documentation of all efforts to secure the child/youth's educational needs are met.
- II. Remaining in the same school district after the child/youth's removal from their home, or change in placement, is in the child/youth's best interest and because it provides stability in the child/youth's life by maintaining contact with the child/youth's peers, teachers, and other school personnel.
 - A. School stability means continuing the child/youth's education program and related social and athletic activities without interruption unless it is not in the child/youth's best interest.
 - B. Factors to consider regarding a child/youth's best interest to remain in the same school are:
 - 1. The child/youth's and parent(s)/guardian(s)'s interest/desire to remain in the same school;

2. What are the child/youth's ties to the current school;
 3. The child/youth's attachment to the school, including significant relationships and involvement in extracurricular activities;
 4. Are the programs at the two (2) schools comparable or is one more appropriate for the child/youth's educational needs;
 5. How the child/youth is performing academically;
 6. What is the distance of the commute (NH best practice calls for bus rides of one (1) hour or less);
 7. Is the child/youth a victim of bullying or are there concerns for the child/youth's personal safety including community safety concerns based on the child/youth's behaviors;
 8. What is the permanency goal and the estimated time/date for achieving the permanency goal; and
 9. The timing of the school transfer coincides with a logical school break, such as after exams, state achievement tests, or at the end of a quarter/trimester/semester.
- C. The CPSW/JPPD reinforces the importance of school stability and educational continuity when discussing the BID about the child/youth's education by:
1. Providing input on the academic, social, and emotional impact that transferring to a new school may have on child/youth;
 2. Ensuring scheduled special education evaluations and services are not interrupted, if applicable;
 3. Helping to determine which programs at the two (2) schools are comparable and most appropriate for the child/youth and make arrangements for the parents, or educational decision maker, and the child/youth to visit the school considered for a possible transfer; and
 4. Providing information on the commute to the schools under consideration, in terms of the effect on participating in extra-curricular activities, distance, mode of transportation, and travel time and likely transporter.

Practice Guidance

What are the educational programs for children and youth in New Hampshire?

- Any child (birth to age six (6) years) who has a need identified for special education/developmental services should be enrolled in an educational program or receiving services to meet their identified need(s); and
- Children/youth age six (6) to 18 must be enrolled in an educational program in compliance with NH RSA 193:1 which requires that all children/youth between age six (6) and 18 attend school unless graduated or legally exempt.

- This includes youth ages 18-21 in compliance with the youth's IEP (see policy 1667) and/or anticipated graduation/completion date.

Where does the child/youth have the right to attend school?

- The child/youth has the right to attend school in the public school they were attending: before placement; at the prior placement; or where the new placement is located. The child/youth must be allowed to continue attending the same school in which they have been enrolled whenever possible and when it meets the child/youth's best interests. This includes attendance at a public school while residing in a Residential Treatment Program if it is the least restrictive and appropriate educational setting.

What are indicators that a child/youth may have an educational disability?

- Under the Child Find Program, the Department of Education lists the following items as indicators in Ed 1105.02(b):
 - Failing to pass a hearing or vision screening;
 - Unsatisfactory performance on group achievement tests or accountability measures;
 - Receiving multiple academic and behavioral warnings or academic or behavior warnings or suspension or expulsion from a child care or after school program;
 - Repeatedly failing one or more subjects;
 - Inability to progress or participate in developmentally appropriate preschool activities; and
 - Receiving service from family centered early support and services.

What are the options that the Division can consider when a child/youth needs to be transported from a placement to their school of origin?

- Would the foster parent(s)/relative caregiver(s) agree to transport the child/youth to school (please note that a foster parent/relative caregiver does not have a legal obligation to provide transportation);
- Could another foster parent or relative in the area transport the child/youth to school;
- Can the child/youth access transportation on the school of origin's current/existing bussing route or ride on a bus/vehicle that is going in the same direction as the placement;
- If the child/youth moves within the school district to a placement, will the school district provide transportation within the district;
- Are there other creative options that may be available for the child/youth's unique circumstances;
- Can the Division cost share vendored transportation services with the local school district(s); or
- Are there special education considerations, such as:
 - Transportation for a child/youth with a disability that remains in the school of origin will be determined through the special education process;
 - An IEP team may consider educational placement at the public school in the school district in which the residential program is located (Ed 1117); or
 - Transportation for a special education student that is enrolled in an out-of-district educational placement at the time of the Division's placement will be determined through the special education process.