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changes in placements while in care (median) and 1 to 2 placement changes per year (average).⁴ School mobility, the usual result of a change in placement, disrupts exposure to key concepts, is linked to lower tests scores and repeating grades, and is linked to dropping out of school.⁵ Keeping children in the same school when removed from home maintains connections with teachers, friends, the school nurse, school counselors, coaches, extracurricular activities and provides co

Transportation questions should be directed to the Office of Pupil Transportation at 518-474-6541 or transportation@nysed.gov

Other questions related to foster care should be directed to the Office of Student Support Services at 518-486-6090 or studentsupportservices@nysed.gov

PART CC

51 Section 1. The education law is amended by adding a new section 3244
52 to read as follows:

53 § 3244. Education of children in foster care. 1. Definitions. For
54 purposes of this section only, the following definitions shall apply:

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1 a. Child or youth in foster care. For the purposes of this article,
2 the term "child or youth in foster care" shall mean a child who is in
3 the care and custody or custody and guardianship of a local commissioner
4 of social services or the commissioner of the office of children and
5 family services.

6 b. School district of origin. The term "school district of origin"
7 shall mean the school district within the state of New York in which the
8 child or youth in foster care was attending a public school or preschool
9 on a tuition-free basis or was entitled to attend at the time of place-
10 ment into foster care when the social services district or the office of
11 children and family services assumed care and custody or custody and
12 guardianship of such child or youth, which is different from the school
13 district of residence.

14 c. School district of residence. The term "school district of resi-
15 dence" shall mean the public school district within the state of New
16 York in which the foster care placement is located, which is different
17 from the school district of origin.

18 d. Feeder school. The term "feeder school" shall mean:

19 (1) a preschool whose students are entitled to attend a specified
20 elementary school or group of elementary schools upon completion of that
21 preschool;

22 (2) a school whose students are entitled to attend a specified elemen-
23 tary, middle, intermediate, or high school or group of specified elemen-
24 tary, middle, intermediate, or high schools upon completion of the
25 terminal grade of such school; or

26 (3) a school that sends its students to a receiving school in a neigh-
27 boring school district pursuant to section two thousand forty of this
28 chapter.

29 e. Preschool. The term "preschool" shall mean a publicly funded pre-
30 kindergarten program administered by the department or a local educa-
31 tional agency or a Head Start program administered by a local educa-
32 tional agency and/or services under the Individuals with Disabilities
33 Education Act administered by a local educational agency.

34 f. Receiving school. The term "receiving school" shall mean:

35 (1) a school that enrolls students from a specified or group of
36 preschools, elementary schools, middle schools, intermediate schools, or
37 high schools; or

38 (2) a school that enrolls students from a feeder school in a neighbor-
39 ing local educational agency pursuant to section two thousand forty of
40 this chapter.

41 g. School of origin. The term "school of origin" shall mean a public
42 school that a child or youth attended at the time of placement into
43 foster care, or the school in which the child or youth was last
44 enrolled, including a preschool or a charter school. Provided that, for
45 a child or youth in foster care who completes the final grade level
46 served by the school of origin, the term "school of origin" shall
47 include the designated receiving school at the next grade level for all
48 feeder schools. Where the child is eligible to attend school in the

49 school district of origin because the child was placed in foster care
 50 after such child is eligible to apply, register, or enroll in the public
 51 preschool or kindergarten or the child is living with a school-age
 52 sibling who attends school in the school district of origin, the school
 53 of origin shall include any public school or preschool in which such
 54 child would have been entitled or eligible to attend based on such
 55 child's last residence before the circumstances arose which caused such
 56 child to be placed in foster care.

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1 2. Choice of district and school. a. Notwithstanding any other
 2 provision of law to the contrary, the social services district, in
 3 consultation with the appropriate local educational agency or agencies,
 4 shall designate either the school district of origin or the school
 5 district of residence within which the child in foster care shall be
 6 entitled to attend in accordance with a best interest determination made
 7 by the applicable social services district or voluntary authorized agen-
 8 cy, as defined in paragraph (a) of subdivision ten of section three
 9 hundred seventy-one of the social services law, in accordance with the
 10 regulations of the office of children and family services. The child
 11 shall be entitled to attend the school of origin or any school that
 12 children and youth who live in the attendance area in which the foster
 13 care placement is located are eligible to attend, including a preschool,
 14 subject to a best interest determination made by the applicable social
 15 services district or voluntary authorized agency, as defined in para-
 16 graph (a) of subdivision ten of section three hundred seventy-one of the
 17 social services law, for the duration of the child's placement in foster
 18 care and until the end of the school year in which such child is no
 19 longer in foster care and for one additional year if that year consti-
 20 tutes the child's terminal year in such building.

21 b. Notwithstanding any other provision of law to the contrary, where
 22 the school district of origin or school of origin that a child was
 23 attending on a tuition-free basis or was entitled to attend when such
 24 child entered foster care is located in New York state and the child's
 25 foster care placement is located in a contiguous state, the child shall
 26 be entitled to attend the school of origin or any school that children
 27 and youth who live in the attendance area in which the foster care
 28 placement is located are eligible to attend, including a preschool,
 29 subject to a best interest determination made by the applicable social
 30 services district or voluntary authorized agency, as defined in para-
 31 graph (a) of subdivision ten of section three hundred seventy-one of the
 32 social services law, for the duration of the child's placement in foster
 33 care and until the end of the school year in which such child is no
 34 longer in foster care and for one additional year if that year consti-
 35 tutes the child's terminal year in such building.

36 c. Notwithstanding the provisions of paragraph a or b of this subdivi-
 37 sion, a child in foster care who is moved from one foster care placement
 38 to another shall be entitled to continue to attend the school of origin
 39 or the social services district may designate that the child in foster
 40 care attend any school that children and youth who live in the attend-
 41 ance area in which the foster care placement is located are eligible to
 42 attend, including a preschool, subject to a best interest determination
 43 made by the applicable social services district or voluntary authorized
 44 agency, as defined in paragraph (a) of subdivision ten of section three
 45 hundred seventy-one of the social services law, for the duration of the
 46 child's placement in foster care and until the end of the school year in
 47 which the child is no longer in such foster care placement and for one

48 additional year if that year constitutes the child's terminal year in
49 such building.

50 d. Upon notification of the designation made by the social services
51 district for a foster care youth, the designated school district of
52 attendance shall immediately:

53 (1) enroll the child or youth in foster care even if the child or
54 youth is unable to produce records normally a requirement for enroll-
55 ment, such as previous academic records, records of immunization and/or
56 other required health records, proof of residency or other documentation

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1 and/or even if the child has missed application or enrollment deadlines
2 during any period of placement in foster care, if applicable. Provided
3 that nothing herein shall be construed to require the immediate attend-
4 ance of an enrolled student lawfully excluded from school temporarily
5 pursuant to section nine hundred six of this chapter because of a commu-
6 nicable or infectious disease that imposes a significant risk of
7 infection of others;

296 r f E(2) / Pres. MC The 18 child or youth in foster care as a resident. For real 2 0 scn 1
9 purposes; and

10 (3) make a written request to the school district where the child's
11 records are located for a copy of such records.

12 e. Within five days of receipt of a request for records in accordance
13 with subparagraph three of paragraph d of this subdivision, the school

46 section, shall be entitled to receive such transportation pursuant to
47 this paragraph. The designated school district of attendance shall
48 provide transportation to and from the child's foster care placement
48 and the school of origin. Any cost incurred for such transpor-

43 ment receives program support from a child care institution affiliated
 44 with a special act school district as defined in subdivision eight of
 45 section four thousand one of this chapter, and the [~~board of education~~
 46 ~~of such district furnishing instruction~~] designated school district of
 47 attendance, upon the recommendation of its committee on special educa-
 48 tion, contracts for such pupil's education pursuant to paragraph c, d,
 49 e, or f of subdivision two of section forty-four hundred one of this
 50 chapter or for a nonresidential placement pursuant to paragraph l of
 51 such subdivision, costs incurred shall be reimbursed in accordance with
 52 paragraph e of this subdivision. Notwithstanding any inconsistent
 53 provision of law, where the permanent residence of a pupil is outside of
 54 the state, the school district in which the pupil was located at the
 55 time the public agency placed such pupil shall be deemed the [~~district~~
 56 ~~of residence~~] school district of origin of such pupil for purposes of

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1 this subdivision and shall be responsible for the cost of instruction of
 2 such pupil.

3 [~~b~~] c. Children cared for in free family homes and children cared for
 4 in family homes at board, when such family homes shall be the actual and
 5 only residence of such children and when such children are not supported
 6 and maintained at the expense of a social services district or of a
 7 state department or agency, shall be deemed residents of the school
 8 district in which such family home is located.

9 [~~e. Children cared for in free family homes and children cared for in~~
 10 ~~family homes at board, when such family homes are not the actual and~~
 11 ~~only residences of such children and when such children are not~~
 12 ~~supported and maintained at the expense of a social services district or~~
 13 ~~of a state department or agency, and who apply for the first time for~~
 14 ~~admittance to the schools of the district in which such family home is~~
 15 ~~located during the school year 1973-1974 shall be admitted upon terms~~
 16 ~~and conditions including the payment of tuition, established by the~~
 17 ~~board of education of such school district, unless such board of educa-~~
 18 ~~tion shall establish to the satisfaction of the commissioner that there~~
 19 ~~are valid and sufficient reasons for refusal to receive such children.]~~

20 d. For the purposes of this subdivision, tuition shall be fixed in an
 21 amount which represents the additional operating cost to the designated
 22 school district of attendance resulting from the attendance of a child
 23 for whom tuition is required, computed in accordance with a formula
 24 established by the commissioner of education.

25 e. Where the [~~board of education of a school district furnishing~~
 26 ~~instruction for a pupil placed pursuant to this subdivision in a family~~
 27 ~~home at board~~] designated school district of attendance for a child or
 28 youth in foster care that receives program support from a child care
 29 institution affiliated with a special act school district, other than
 30 the board of the pupil's school district of [~~residence~~] origin as
 31 defined in paragraph a of this subdivision, upon the recommendation of
 32 its committee on special education, contracts for the instruction of
 33 such pupil pursuant to paragraph c, d, e, or f of subdivision two of
 34 section forty-four hundred one of this chapter or for a nonresidential
 35 placement pursuant to paragraph l of such subdivision, such board shall
 36 submit a claim to the commissioner for current year reimbursement of
 37 costs incurred for such pupil. The commissioner shall pay such claim in
 38 accordance with the applicable provisions of section thirty-six hundred
 39 nine-b of this chapter and shall be reimbursed by the school district
 40 identified as the pupil's school district of [~~residence~~] origin as

41 defined in paragraph a of this subdivision. The commissioner shall
 42 deduct the amount of such claim from moneys otherwise due the school
 43 district of [~~residence~~] origin.

44 f. The identity of the school district of [~~residence at the time the~~
 45 ~~public agency placed the pupil pursuant to paragraph a or paragraph e of~~
 46 ~~this subdivision~~] origin shall be established in accordance with the
 47 following procedure:

48 (i) Within ten days of the placement of such pupil, the public agency
 49 or its designee shall give written notice of such placement to the board
 50 of education of the school district believed to be the school district
 51 of [~~residence~~] origin. Such notification shall include the name of the
 52 pupil and any particulars about the pupil that pertain to the identifi-
 53 cation of the school district as the school district of [~~residence~~]
 54 origin as defined in paragraph a of this subdivision.

55 (ii) A board of education of a school district which receives notifi-
 56 cation pursuant to subparagraph (i) of this paragraph may submit to the

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1 public agency, within ten days of its receipt of such notice, additional
 2 evidence to establish that it is not the pupil's district of [~~residence~~]
 3 origin as defined in paragraph a of this subdivision. Any evidence so
 4 submitted shall be considered by the agency prior to making its final
 5 determination, which shall be made no later than five days after the
 6 agency's receipt of such additional evidence. In the event such school
 7 district fails to submit additional evidence within such ten day period,
 8 the determination of the public agency shall be final and the notifica-
 9 tion provided pursuant to subparagraph (i) of this paragraph shall be
 10 deemed final notification of such determination.

11 (iii) If, upon its review, the public agency determines that the
 12 school district notified pursuant to subparagraph (i) of this paragraph
 13 was not the pupil's district of [~~residence~~] origin, the public agency
 14 shall send notification to the correct school district, in the form
 15 prescribed by subparagraph (i) of this paragraph. Alternatively, if,
 16 upon its review, the public agency determines that the school district
 17 originally designated pursuant to subparagraph (i) of this paragraph is
 18 the pupil's district of [~~residence~~] origin, the public agency shall
 19 notify such district in writing of its final determination.

20 (iv) The board of education of the school district finally determined
 21 by the public agency to be the pupil's school district of [~~residence~~]
 22 origin may appeal such determination to the commissioner within thirty
 23 days of its receipt of final notification pursuant to this paragraph.
 24 Such an appeal shall be conducted in the same manner as an appeal from
 25 the actions of local school officials pursuant to section three hundred
 26 ten of this chapter, except that the factual allegations of the peti-
 27 tioner shall not be deemed true in the event the public agency elects
 28 not to appear in the appeal. The petitioner shall join as a party to the
 29 appeal any other school district suspected to be the pupil's actual
 30 school district of [~~residence~~] origin.

31 (v) If the commissioner finds that the school district notified pursu-
 32 ant to subparagraph (i) or (iii) of this paragraph was not the pupil's
 33 school district of [~~residence~~] origin as defined in paragraph a of this
 34 subdivision and that the correct school district was not joined as a
 35 party to the appeal, the commissioner shall direct the public agency to
 36 notify the correct school district pursuant to subparagraph (i) of this
 37 paragraph.

38 (vi) Notwithstanding any inconsistent provisions of law, during the

39 pendency of all proceedings to review a denial of financial responsibil-
 40 ity, the commissioner shall issue an interim order assigning such finan-
 41 cial responsibility to the school district or, alternatively, upon a
 42 determination that the public agency failed to make reasonable efforts
 43 to identify the [~~residence~~] school district of origin of such child, to
 44 the public agency. In the event the public agency fails to provide
 45 timely notice pursuant to subparagraph (i) of this paragraph, or fails
 46 to render its final determination in a timely manner, the public agency
 47 responsible for such pupil's residential placement shall reimburse the
 48 commissioner for the payments made to the district furnishing instruc-
 49 tion pursuant to this paragraph during the pendency of all proceedings
 50 or for the duration of the current school year, whichever is longer, and
 51 the state comptroller shall withhold such amount from any moneys due the
 52 county or the city of New York, on vouchers certified or approved by the
 53 commissioner, in the manner prescribed by law or shall transfer such
 54 amount from the account of such state department or agency upon certifi-
 55 cation of the commissioner, and such funds shall be credited to the

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1 general support for public schools local assistance account of the
 2 department.

3 (vii) Any final determination or order of the commissioner concerning
 4 the school district of [~~residence~~] origin of any pupil under this
 5 section may only be reviewed in a proceeding brought in the supreme
 6 court pursuant to article seventy-eight of the civil practice law and
 7 rules. In any such proceeding under such article seventy-eight, the
 8 court may grant any relief authorized by the provisions of section
 9 seventy-eight hundred six of such law and rules and may also, in its
 10 discretion, remand the proceedings to the commissioner. A local social
 11 services commissioner or any state department or agency placing pupils
 12 pursuant to this subdivision is a proper party in any such appeal or
 13 proceeding.

14 (viii) Upon completion of all proceedings to review the denial of
 15 financial responsibility for the costs of instruction pursuant to this
 16 paragraph, the commissioner shall refund any payments made by a party
 17 cleared of such responsibility and shall collect any payments owed by a
 18 party found to have such responsibility. Where such transactions involve
 19 a school district liable for reimbursement pursuant to paragraph e of
 20 this subdivision, the commissioner shall appropriately increase or
 21 decrease the moneys due a school district by such amount in accordance
 22 with the provisions of section thirty-six hundred nine-b of this chap-
 23 ter. Where such transactions involve the public agency making a place-
 24 ment pursuant to this subdivision, the comptroller shall increase or
 25 decrease the moneys due such public agency by such amount upon certifi-
 26 cation of the commissioner, transferring such amount to or from the
 27 account of such state department or agency to or from the general
 28 support for public schools local assistance account of the department.

29 g. If within ninety days from the entry of an order or judgment of a
 30 court of competent jurisdiction or the receipt of a decision of the
 31 commissioner pursuant to section three hundred ten of this chapter,
 32 determining the responsibility of a school district to pay tuition for a
 33 pupil in accordance with the provisions of paragraph a of this subdivi-
 34 sion or of section five hundred four of the executive law, such school
 35 district has not made payment to the designated school district [~~provid-~~
 36 ~~ing instruction to such pupil~~] of attendance, the school district enti-
 37 tled to such payment may make application to the commissioner to receive

38 a sum in the amount of such tuition from the apportionment of public
 39 money payable to the school district required to pay such tuition. The
 40 application for payment shall be accompanied by a certified copy of the
 41 order or judgment of a court, or a copy of the decision of the commis-
 42 sioner, and by proof of service by first class mail of a copy of such
 43 application upon the school district required to pay such tuition.
 44 Unless the school district required to pay such tuition shall have noti-
 45 fied the commissioner of such payment within thirty days from the
 46 receipt of such application, the commissioner shall withhold an amount
 47 equal to the tuition for such pupil from the public money payable to the
 48 school district responsible for such tuition and shall pay such amount
 49 to the school district which has provided instruction to such pupil. The
 50 commissioner is authorized to promulgate regulations to implement the
 51 provisions of this paragraph.

52 § 3. Paragraph (a) of subdivision 2 of section 153-k of the social
 53 services law, as amended by section 2 of subpart B of part K of chapter
 54 56 of the laws of 2017, is amended to read as follows:

55 (a) Notwithstanding the provisions of this chapter or of any other law
 56 to the contrary, eligible expenditures by a social services district for

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1 foster care services shall be subject to reimbursement with state funds
 2 only to the extent of annual appropriations to the state foster care
 3 block grant. Such foster care services shall include expenditures for
 4 the provision and administration of: care, maintenance, supervision
 5 [