

The Code of Virginia reinforces Fostering Connections and ESSA for educational stability.

§ 22.1-3.4. Enrollment of certain children placed in foster care.

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.

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.

C. In the event the student continues to attend the school in which he was enrolled prior to the most recent foster care placement, the receiving school division shall be accorded foster children education payments pursuant to § [22.1-101.1](#); further, the receiving school division may enter into financial arrangements with the sending school division pursuant to subsection C of § [22.1-5](#). Under no circumstances shall a child placed in foster care be charged tuition regardless of whether such child is attending the school in which he was enrolled prior to the most recent foster care placement or attending a school in the receiving school division.

D. For the purposes of subsections A, B, and C:

"A child or student placed in foster care" means a pupil who is the subject of a foster care placement through an entrustment or commitment of such child to the local social services board or licensed child-placing agency pursuant to clause (ii) of the definition of "foster care placement" as set forth in § [63.2-100](#).

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.

E. Notwithstanding the provisions of subsections A, B, and C or § [22.1-3](#) or [22.1-5](#), no person of school age who is the subject of a foster care placement, as such term is defined in § [63.2-100](#), shall be charged tuition.

§ 63.2-900.3. School placement of children in foster care.

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](#).

Virginia Special Education Regulations – “Parent”

“Parent” means: (§ 20-124.6 and § 22.1-213.1 of the Code of Virginia; 34 CFR 99.4 and 34 CFR 300.30)

1. Persons who meet the definition of “parent”:
 - a. A biological or adoptive parent of a child;
 - b. A foster parent, even if the biological or adoptive parent’s rights have not been terminated, but subject to subdivision 8 of this subsection;
 - c. A guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child (but not a guardian ad litem, or the state if the child is a ward of the state);
 - d. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare;
 - e. If no party qualified under subdivisions 1a through 1d of this subsection can be identified, or those parties are unwilling to act as parent, a surrogate parent who has been appointed in accordance with requirements detailed under 8VAC20-81-220; or
 - f. A minor who is emancipated under § 16.1-333 of the Code of Virginia.
2. If a judicial decree or order identifies a specific person(s) under subdivisions 1 a through 1 e of this subsection to act as the “parent” of a child or to make educational decisions on behalf of a child, then such person(s) shall be determined to be the “parent” for purposes of this definition.
3. “Parent” does not include local or state agencies or their agents, including local departments of social services, even if the child is in the custody of such an agency.
- 4. The biological or adoptive parent, when attempting to act as the parent under this chapter and when more than one party is qualified under this section to act as a parent, shall be presumed to be the parent for purposes of this section unless the biological or adoptive parent(s)’ authority to make educational decisions on the child’s behalf has been extinguished pursuant to § 16.1-277.01, 16.1-277.02, or 16.1-283 of the Code of Virginia or a comparable law in another state.**
5. Noncustodial parents whose parental rights have not been terminated are entitled to all parent rights and responsibilities available under this chapter, including access to their child’s records.
6. Custodial stepparents have the right to access the child’s record. Noncustodial stepparents do not have the right to access the child’s record.
7. A validly married minor who has not pursued emancipation under § 16.1-333 of the Code of Virginia may assert implied emancipation based on the minor’s marriage record and, thus, assumes responsibilities of “parent” under this chapter.
8. The local educational agency shall provide written notice to the biological or adoptive parents at their last known address that a foster parent is acting as the parent under this section, and the local educational agency is entitled to rely upon the actions of the foster parent under this section until such time that the biological or adoptive parent attempts to act as the parent.

The Fostering Connections Act/ESSA, Title I, Part A Foster Care Provisions:

Applies	It Depends	Does Not Apply

- a. School age children and youth in foster care who are changing foster care placements
- b. Preschoolers in foster care (not K-12 grades)
- c. Children and youth in kinship care
- d. Children and youth leaving a foster care placement and going back home
- e. Refugee children and youth in foster care without DSS involvement
- f. Children and youth in foster care being placed in residential settings
- g. Children and youth who have been adopted
- h. Children and youth in their initial foster care placement
- i. Children and youth experiencing homelessness
- j. Children and youth in foster care leaving residential placements and returning to another foster care placement within the community
- k. Children and youth placed with relatives as the result of a DSS/parent safety plan

Answer key:

Applies: a, b, f, h, j

It Depends: c (applies to foster care with kin NOT to informal kinship care)

d (applies unless DSS no longer has custody when child returns home)

i (does NOT apply unless child/youth is a runaway)

Does Not Apply: e, g, k

Case A

General education child enters foster care in Stafford County. Child attends Stafford County Schools.

Stafford County DSS places child in a home (20 miles away) in King George County.

- Is a BID required?
- Who is REQUIRED to be part of the BID? (Stafford or King George or both?)

Later, Stafford County DSS removes child from King George and places child in home in Hanover County.

- Is a BID required?
- Who is REQUIRED to be part of the BID? (Stafford or King George or Hanover or all three?)

Case B

Second Scenario, Same Situation, only this time, child has IEP....

Child with IEP enters foster care in Stafford County. Child attends Stafford County Schools.

Stafford County DSS places child in a home in King George County.

- Is a BID required?
- Who is REQUIRED to be part of the BID? (Stafford or King George or both?)

Later, Stafford County DSS removes child from King George and places child in home in Hanover County.

- Is a BID required?
- Who is REQUIRED to be part of the BID? (Stafford or King George or Hanover or all three?)

Case C

Student from Roanoke County, attending Roanoke County Schools, is placed in a group home in Henrico County.

- Is a BID required?
- If the student is a general education student, who are the decision makers?
- If the student has an IEP, who are the decision makers?
 - Henrico determines that the student's needs require a private placement to be met. What does the IEP process look like beginning at the time of placement in the group home?

Case D

Student from Hampton City with an IEP was placed in a residential setting Waynesboro in for the past six months and has attended school there. He is stepping down to a group home in Chesterfield.

- Is a BID required?
- Who are the decision makers?
- Create a flowchart or list the steps that must occur for this student to be in school. Consider potential challenges/barriers and possible solutions to those issues.