



Washington Office of Superintendent of
PUBLIC INSTRUCTION

*Foster Care
Education Program:
Dispute Resolution
Process*

2021

FOSTER CARE EDUCATION PROGRAM: DISPUTE RESOLUTION PROCESS

2021

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NOTE

This dispute process is intended to address the implementation of the foster care provisions of the Every Student Succeeds Act of 2015 and Revised Code of Washington (RCW) [28A.225.350](#). Students in foster care who are also eligible for special education services have access to additional processes. For example, decisions regarding the provision of Free Appropriate Public Education (FAPE) are made by the student's Individualized Education Program (IEP) team. Disagreements that arise about a student's special education program can be resolved using the dispute resolution options available under special education law. For more information, see the [Special Education Dispute Resolution](#) webpage.

COMMON TERMS

Caregiver

In Washington state, the term "caregiver" applies to out-of-home placement options that include licensed foster homes, relatives, group care providers, or court ordered suitable others. Please note: These placement options must be the result of a state dependency action as established by the court for this dispute process to apply.

DCYF

The Washington State Department of Children, Youth, and Families (DCYF) is the public child welfare agency for the state of Washington.

Educational Decision-Maker

The Caregiver Authorization form should list the caregiver and caseworker as day-to-day decision-makers for students in foster care. There may, however, be additional decision-makers appointed by the court and identified on the Health and Education Authorization Court Order other than, or in addition to, the caregiver and caseworker. This could be the birth parent, education liaison, or another appropriate adult.

Foster Care

In Washington State, "foster care" describes an open child welfare case in which DCYF or a licensed or certified child placing agency, including tribal child welfare, has placement and care authority. This applies to any placement (including a relative, suitable person, or trial-return-home), so long as the child is under the placement and care responsibility of child welfare.

"Foster care" also applies to students under the placement and care authority of the state through the Unaccompanied Refugee Minors program.

Other Supervising Agency

An agency licensed by the state under [RCW 74.15.090](#), or licensed by a federally recognized tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with DCYF to provide case management for the delivery and documentation of child welfare services as

defined in [RCW 74.13.020](#).

School of Origin

The school in which a child is enrolled at the time of placement in foster care. If a child's foster care placement changes, the school of origin would then be considered the school in which the child is enrolled at the time of the placement change.

Neighborhood School

The school option available to any student living at the address where the student in foster care resides.

Best Interest Determination

Using child-centered criteria for determining which educational setting is best for a particular student. Decisions should be made on a case-by-case basis. The cost of transportation should not be considered.

LEA

Local Education Agency (LEA) is a public authority, such as a school district, legally constituted by the state as an administrative agency to provide control of and direction for K–12 public educational institutions.

OVERVIEW

Students in foster care must remain in their school of origin unless a best interest determination finds that it is in the student's best interest to attend the neighborhood school. In a case where a dispute occurs regarding the determination of best interest for a student in foster care, the following process must be used:

1. Level I of the appeal is to the district's foster care liaison.
2. If unresolved at this level, the dispute is appealed to the local school district superintendent or their designee (Level II).
3. If the dispute continues to be unresolved, the final appeal (Level III) is to OSPI. The student must remain enrolled in, and attending, their school of origin while a best interest determination is made and while disputes are resolved in order to minimize disruption and reduce the number of school transfers. If a dispute over transportation expenses arises, the school district must provide transportation services while payment disputes are being resolved.

Disputes may be filed by the caregiver, or the educational decision-maker appointed by the court. The two parties may not use the school district dispute resolution process to resolve disagreements amongst themselves.

THE DISPUTE RESOLUTION PROCESS

If the caregiver or educational decision-maker disagrees with the LEA's best interest determination, the LEA shall inform them in a language and format understandable, of their right to appeal. They shall also be provided with the following:

1. The written contact information for the LEA foster care liaison and the State Foster Care Education Program Supervisor, with a brief description of their roles.
2. An explanation of the best interest determination.
3. A simple, written, step-by-step description of how to dispute the school district's decision and the contact information of the person designated to receive the dispute. Caregivers or educational decision-makers should be able to easily complete the steps to initiate the dispute process.

Individuals submitting disputes shall have the opportunity to submit a dispute to the district via email. These disputes shall be treated with the same legitimacy as a dispute submitted in any other format. School districts should respond to disputes in the same format in which they were received or as requested by the student's caregiver or educational decision-maker.

No dispute should be rejected because it is not on the appropriate form; however, individuals filing disputes will be held to the process and timelines outlined in this document.

4. Written notice of the right to remain enrolled and attending the school of origin while the dispute is being resolved.
5. Written notice of the right to appeal to the state if the district-level resolution is not satisfactory, with applicable timelines.

LEVEL I: LEA LIAISON

(If a caregiver or educational decision-maker wishes to dispute a school district's decision related to the best interest determination.)

1. The caregiver or educational decision-maker must file a request for dispute resolution with the district's foster care liaison by submitting a letter or email that initiates the dispute resolution process.

The request for dispute resolution must be submitted by the caregiver or educational decision-maker to the district foster care liaison within fifteen (15) business days of receiving notification of the best interest decision.

The caregiver or educational decision-maker may submit the request directly to the foster care liaison or they may submit the request to the school where the dispute is taking place. If the request is submitted to the school where the dispute is taking place, the school shall immediately forward the request to the district's foster care liaison.

In the event that the district's foster care liaison is unavailable, a school district designee may receive the request to initiate the dispute resolution process.

2. The foster care liaison must log their receipt of the complaint, including the date and time, with a written description of the situation and the reason for the dispute, and a copy of the dispute must be forwarded to the liaison's immediate supervisor and the district superintendent.
3. Within five (5) business days of their receipt of the dispute, the foster care liaison must make a decision on the dispute and inform the caregiver or educational decision-maker in writing of the result. The foster care liaison must include the following documents in their notification:
 - a. A copy of the original dispute which was filed at Level I.
 - b. The decision rendered at Level I by the LEA foster care liaison.
 - c. Any additional information from the caregiver or educational decision-maker and/or foster care liaison.
 - d. Instructions regarding how to file a Level II dispute.

It is the responsibility of the district to verify receipt of the written notification regarding the foster care liaison's Level I decision.

4. If the caregiver or educational decision-maker disagrees with the decision made at Level I and wishes to move the dispute resolution process forward to Level II, the caregiver or educational decision-maker shall notify the district's foster care liaison of their intent to proceed to Level II within ten (10) business days of receipt of notification of the Level I decision.

LEVEL II: LEA SUPERINTENDENT OR DESIGNEE

(If the dispute remains unresolved after a Level I appeal.)

1. If the student's caregiver or educational decision-maker disagrees with the decision rendered by the district's foster care liaison at Level I, they may appeal the decision to the local school district's superintendent, or the superintendent's designee (the designee shall be someone other than the district's foster care liaison) using the appeals package provided at Level I.
2. The superintendent, or superintendent's designee, will arrange for a personal conference to be held with the student's caregiver or educational decision-maker, the student if appropriate, and at least one representative from DCYF or Other Supervising Agency.

Personal conferences can occur in-person or over the phone. If it is not possible for DCYF or Other Supervising Agency staff to be present for the conference within a reasonable time, the district should document their efforts to include a representative and proceed with the conference.

The personal conference will be arranged within five (5) business days of the notification to

the district that the caregiver or educational decision-maker intends to proceed to Level II of the dispute resolution process.

Once arranged, the meeting between the superintendent, or superintendent's designee, the caregiver or educational decision-maker, and DCYF or Other Supervising Agency representative is to take place as quickly as possible.

3. The local superintendent, or superintendent's designee, will provide a decision in writing to the caregiver or educational decision-maker with supporting evidence and reasons, within five (5) business days of the personal conference.

It is the responsibility of the district to verify receipt of the written notification regarding the superintendent's Level II decision. The district should provide:

- a. A copy of the caregiver or educational decision-maker's initial dispute, which was filed at Level I, along with the Level I decision.
- b. The decision rendered at Level II by the LEA Superintendent or their designee.
- c. Any additional information from the caregiver or educational decision-maker and/or foster care liaison.
- d. Instructions regarding how to file a Level III—including the physical address and email address of where to submit their dispute:

Foster Care Education Program Supervisor
Old Capitol Building
PO Box 47200
Olympia, WA 98504-7200
fostercare@k12.wa.us

4. A copy of the appeals package, along with the written decision made at Level II must be shared with the district's foster care liaison.
5. If the designated caregiver or educational decision-maker disagrees with the decision made at Level II and wishes to move the dispute resolution process forward to Level III, they shall notify the district's foster care liaison of their intent to proceed to Level III within ten (10) business days of receipt of notification of the Level II decision.

LEVEL III: OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION (OSPI)

(If the dispute remains unresolved after a Level II appeal.)

1. The district superintendent or their designee shall forward all written and electronic documentation to the OSPI Foster Care Education Program Supervisor, or designee, for review, within five (5) business days of receiving notification of the caregiver or educational decision-maker's intent to file a Level III dispute.

2. The caregiver or educational decision-maker may also submit related documentation to the OSPI Foster Care Education Program Supervisor, or designee, for review, within the five (5) business days after notifying the school district of their intent to file a Level III dispute.

OSPI will not review any documents or other information submitted by either party after the five (5) business day deadline.

3. The entire dispute package, including all documentation and related paperwork, is to be submitted to OSPI in one consolidated and complete package via email or the US Postal Service. *It is the responsibility of the district to ensure that dispute package is complete and ready for review at the time it is submitted to OSPI.*
4. The OSPI Foster Care Education Program Supervisor, or designee, along with a committee of OSPI and DCYF staff, shall make a final decision within fifteen (15) business days of receipt of the dispute.
5. The final decision will be forwarded to the local school district's foster care liaison for distribution to the caregiver or educational decision-maker, the DCYF representative engaged by the school district at Level II, and the local superintendent.
6. The decision made by the committee shall be final.
7. The office of the school district superintendent shall maintain a record of all disputes related to the placement of students in foster care. These records shall include disputes resolved at Level I, Level II, and/or Level III and shall be made available to OSPI upon request.

DISPUTES BETWEEN SCHOOL DISTRICTS AND DCYF OR OTHER SUPERVISING AGENCY

Every effort must be made to collaborate with DCYF or the Other Supervising Agency and the aggrieved parties to resolve the complaint or dispute at the local level before it is sent to OSPI.

For every type of dispute regarding a student in foster care, the LEA and local child welfare agency must make every effort to resolve the dispute collaboratively at the local level. Disputes between LEAs and DCYF or Other Supervising Agency that remain unresolved shall be forwarded in writing by either of the disputing parties to the OSPI Foster Care Education Program Supervisor, or designee and the other party.

A decision will be made by the OSPI Foster Care Education Program Supervisor, or designee, along with a committee of OSPI and DCYF staff within ten (10) business days of the receipt of the dispute.

The decision will be forwarded, in writing, to the district's superintendent, the district's foster care liaison, and the DCYF representative involved in the dispute. The decision made by the committee shall be final.

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Download this material in PDF at <https://www.k12.wa.us/student-success/access-opportunity-education/foster-care/foster-care-resources-and-training>. This material is available in alternative format upon request. Contact the Resource Center at 888-595-3276, TTY 360-664-3631. Please refer to this document number for quicker service: 21-0018.



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