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| LOCAL COMMISSIONERS MEMORANDUM |  
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DSS-4037EL (Rev. 9/89)

Transmittal No: 95 LCM-84

Date: July 28, 1995

Division: Services & Community  
Development

TO: Local District Commissioners

SUBJECT: Committee on Special Education Notification Concerning  
Foster Child

ATTACHMENTS: Implementation of Chapter 600 of the Laws of 1994  
Regarding Students with Disabilities At Risk Of or In  
Residential Placements (State Education Department  
Memorandum) [Not Available On-Line]

The purpose of this release is to provide you with guidelines for the acceptance of notices that a child in foster care is at risk of an educational placement at a residential school. Pursuant to Section 4402 (1) (b) (4) of the Education Law (EL), the Committee on Special Education (CSE) of the local school district which the foster child attends must notify the appropriate social services official upon such determination. Section 34 (3) (h) of the Social Services Law (SSL) sets out the parameters of the guidelines.

95 LCM-55 (May 11, 1995): Chapter 600 of the Laws of 1994 - Transitional Care Services provided you with a summary of the key statutory provisions of this Act.

Attached to this release for your information is the State Education Department's memorandum distributed to relevant school authorities and others. Of particular note is paragraph (3) on page 3 which elaborates the CSE requirement as follows:

Notify the local social services district when the Committee on Special Education (CSE) determines that a child who is receiving foster care is at risk of a future placement in a residential school. For children in foster care, school districts are responsible to ensure the provision of an appropriate program in a day setting. The participation of the local social services district representatives in CSE proceedings when children in foster care are at risk of needing a more restrictive placement is essential to ensure that the residential and educational needs are collaboratively addressed by the Department of Social Services and the school district. While the involvement of Social Services District representatives is very important, they are not mandated members of the CSE for the purposes of decision making.

Attachment 1 of The State Education Department's memorandum provides a comprehensive set of considerations for determining that a child is at risk of a residential school placement.

Although home and community factors alone do not warrant a residential placement for educational needs, such factors in combination with school factors may indicate that the student is at risk of a residential school placement. One of the overriding goals of Chapter 600 of the Laws of 1994, is to reduce residential school placements. In an attempt to successfully meet this goal it is vital that social service districts and school districts work together to divert at risk foster children from proceeding to this more intensive level of care whenever possible by:

- sharing information;
- pooling resources;
- avoiding duplication and inconsistencies in approach; and
- managing and coordinating service referrals and service provision.

Department Guidelines:

| Upon receipt of a notification that a foster child in your care has been determined at risk of an educational placement at a residential school, inquire into the educational needs of the child. Requests of the school district for the following information would be considered appropriate:

The foster child's Individual Educational Program (IEP) and a record of the level of progress the foster child has made toward reaching his or her individualized goals; the particular school related supports and the dates of provision; records of grades, standardized and individual test results, and psychological reports and assessments.

Information regarding the nature and scope of school behavior problems that are becoming increasingly difficult to address in the school setting despite the provision of support services; as appropriate, incident reports and attendance statistics.

Specialized services and/or medical interventions provided by the school.

A history of referrals to the CSE and the outcomes of these referrals.

| Upon receipt of a notification that a foster child in your care has been determined at risk of an educational placement at a residential school, inquire into the circumstances of the foster care placement. A careful review of the Uniform Case Record (UCR) should provide relevant information including but not limited to:

The original reason for the child's placement in foster care and the child's complete placement history.

The current assessment for the child and his or her family and the permanency planning goal for the child.

The current service plan for the child, the service providers active in delivering services to the child and any unmet service needs.

The role of the child's parents in the child's life, the current service plan for the child's parents, the service providers active in delivering services to the family and any unmet service needs.

The child's relationships with the current foster care providers (foster parents, house parents) and their role with regard to service provision, including any expressed need for additional services for the child or to help them manage the child.

Medical and psychological assessments, reports, evaluations, diagnoses, prognoses, and related treatment histories.

Other relevant factors such as court involvement and history of abuse or maltreatment.

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Sharing information in social services district child welfare records with the school district, when such information may be relevant to the needs of the CSE, is encouraged. It is up to the social services district to decide on the relevancy of the case record material in appropriately assisting the CSE. It should be noted that sharing information must take into consideration confidentiality and disclosure provisions of Section 2782 of the Public Health Law and 18 NYCRR 431.7 regarding HIV-related information. (See also 91 ADM-36.)

Participation by the local department's Commissioner or his or her designee in the proceedings of the CSE is of the utmost importance. It is during these proceedings that the types of information housed within the school's record and the types of information housed within the social services district record can be brought together in a cohesive, integrated manner and used collaboratively to address the needs of the foster child. Areas for further assessment may be explored and input gathered by all participants as to the nature of needs that must be met in order that the child may be afforded every opportunity to remain in the least restrictive environment.

If you have any questions, please contact Michelle Rafael at (518) 474-4352 or User ID 0fd030. Questions regarding the State Education Department's memorandum may be directed to the Office for Special Education Services at (518) 473-2878.

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Donald K. Smith