



Memo

To: Administrative Unit Special Education Directors
From: Paul Foster, Ed.D.
Date: August 15, 2019
Re: Potential Impact of the Family First Prevention Services Act on Special Education Students

In January of 2020, the Colorado Department of Human Services (CDHS) will begin to implement provisions of the Family First Prevention Services Act that may impact out-of-home placement options and potentially affect educational services for IDEA-eligible students. The Family First Prevention Services Act, passed by Congress in 2018, changes the way states may spend federal funds within the child welfare system by reforming funding streams for Title IV-E and Title IV-B of the Social Security Act. Because these funds are typically used by Community Centered Boards to fund day treatment and residential programs, this legislation may impact out-of-home placement options, such as students in foster care and students who are placed in approved facility schools by county departments of human services. We do not anticipate that students placed in an approved facility school by an IEP team will be impacted by the new legislation.

In light of this potential impact, we encourage you to maintain open lines of communication with the facility schools, foster homes, and families for students currently in out-of-home placements to ensure that students returning to their Administrative Unit of Residence do not experience any lapses in special

education and related services. While we recognize the challenges an unexpected change in out-of-home placement may present, each Administrative Unit must ensure that the IDEA-eligible students for whom they are responsible receive a free appropriate education in the least restrictive environment. 34 C.F.R. § 300.101; ECEA Rule 5.01(1). Further, IDEA includes specific provisions intended to ensure continuity in educational services when a student receiving special education and related services moves from one school to another. 34 C.F.R. § 300.323(e)-(f). A delay in providing educational services for any IDEA-eligible student or providing services in a setting that is inconsistent with a student's least restrictive environment would be inconsistent with IDEA and ECEA requirements.

The following resources may provide useful information to ensure educational stability for students in out-of-home placements, a group that includes some of our most vulnerable students.

[*CDE's Office of Facility Schools: Out of District Manual \(August 2018\)*](#)

[*Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care, 116 LRP 27371 \(EDU/HHS 06/23/2016\)*](#)

[*Letter to State Directors of Special Education, 61 IDELR 202 \(OSERS 7/19/2013\)*](#)

[*Questions and Answers on Individualized Educ. Programs \(IEPs\), Evaluations, and Reevaluations, 111 LRP 63322 \(OSERS 09/01/11\)*](#)