

199.802 Consideration of best interest of child in placing child within same or different school district -- Transportation to be provided as needed -- Timely record and information sharing -- Confidentiality of information.

- (1) As used in this section:
 - (a) "Best interest of the child" means the determination regarding the enrollment of a child made when considering all factors relating to the best interest of a child, as outlined in 20 U.S.C. secs. 6301 et seq., including but not limited to:
 1. The benefits to the child of maintaining educational stability;
 2. The appropriateness of the current educational setting;
 3. The child's attachment and meaningful relationships with staff and peers at the current educational setting;
 4. The influence of the school's climate on the child;
 5. The safety of the child; and
 6. The proximity of the placement to the school of origin, and how the length of a commute would impact the child;
 - (b) "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided, that is in the care of the department;
 - (c) "Educational stability" means the maintenance of the enrollment of a child in a particular school upon a transition to a different placement or living arrangement when such maintenance is in the best interest of the child, and if not, the enrollment of the child in a new school in a time and manner that ensures the child experiences a minimal lapse in school attendance; and
 - (d) "School of origin" means the public school in which the child was enrolled immediately prior to placement.
- (2) In determining the placement of a child under KRS 199.801, the department shall, if practicable, locate a placement within the same school district where the child was most recently enrolled to allow the child to remain enrolled in the school of origin.
- (3)
 - (a) The department, in consultation with the local education agency, shall make the determination on whether the child shall remain enrolled in the school of origin based on the best interest of the child, weighing the promotion of educational stability as a primary factor.
 - (b) In accordance with 20 U.S.C. secs. 6301 et seq., the cost of transportation shall not be a factor in determining the best interest of a child for an enrollment decision.
- (4) If the department finds it is in the best interest of a child to remain in the school of origin upon placement of the child in a new school district, reasonable transportation shall be offered from the location of placement to the school of origin in which the child is enrolled for any regularly scheduled school day. In accordance with 20 U.S.C. secs. 6301 et seq., costs incurred by a school district, foster parent, child-placing agency, or child-caring facility for transportation to the school shall be reimbursed by the department upon request.
- (5) Upon the determination that changing a child's school of enrollment is in the best

interest of the child:

- (a) The department, any applicable child-caring facility, child-placing agency, school, and local school district, and the child's state agency caseworker shall collaborate to ensure the immediate and appropriate enrollment of the child;
- (b)
 - 1. The child's state agency caseworker shall immediately contact the receiving district to inform the district of the pending enrollment changes.
 - 2. The child's state agency caseworker or child-caring facility or child-placing agency case manager shall either accompany the child and the foster parent to the new school to enroll the child or contact applicable staff at the new school via telephone during the day of enrollment, to assist with the enrollment, to share information relating to the child's unique needs and prior experiences that may impact their education, and to identify and prevent disruptions in any instructional or support services that the child may have been receiving prior to that time, including but not limited to medical and behavioral health history and individual service plans;
- (c) In accordance with 20 U.S.C. secs. 6301 et seq., the new school shall immediately enroll the child, even if the child is unable to produce records required for enrollment, including but not limited to:
 - 1. Academic records;
 - 2. Medical records; and
 - 3. Proof of residency;
- (d) The new school shall immediately request the records of the child from the child's previous school;
- (e) The previous school shall provide the new school:
 - 1. Notwithstanding KRS 159.170, all records within the student information system maintained by the Kentucky Department of Education regarding the child by the end of the working day on the day of receipt of a request made under this subsection. If a record provided to the new school is incomplete, the previous school shall provide the completed record within three (3) working days of the original request; and
 - 2. In accordance with KRS 159.170, all remaining records regarding the child within ten (10) working days of receipt of a request made under this subsection;
- (f) In accordance with 20 U.S.C. sec. 1232g, the department responsible for the child, and the child's state agency caseworker, or child-caring facility or child-placing agency case manager shall be granted access to all educational records on a confidential basis in order to facilitate the proper transfer, enrollment, and educational placement of the child;
- (g) In accordance with KRS 158.140(1), promotions or credits earned in attendance in any approved public school shall be accepted as valid at the new

school;

- (h) The department, child-caring facilities, child-placing agencies, child's state agency caseworkers, school districts, and foster parents shall each collaborate with one another to ensure the educational stability of each child, and to assist one another with meeting the educational needs of each child in furtherance of the rights enumerated in KRS 620.363; and
- (i)
 - 1. The department, child-caring facilities, child-placing agencies, and a child's state agency caseworker, may share information regarding a child and facts learned about a child and his or her unique needs and prior experiences, as necessary, with staff of the new school district in which the child is enrolling in order to identify and serve the educational needs of the child.
 - 2. All information regarding a child or facts learned about a child by the department, any child-caring facility or child-placing agency licensed by the cabinet, or a child's state agency caseworker, and shared with staff of a school district pursuant to this section, shall be deemed confidential in the same manner and subject to the same provisions as similar records of the cabinet. The information thus obtained shall not be published or be open for public inspection, except to authorized employees of the school district in performance of their duties and to identify and serve the educational needs of the child.
- (6) The school district in which the child is enrolled upon his or her successful completion of all high school graduation requirements shall issue a diploma indicating graduation from high school to the child.

Effective: July 15, 2020

History: Amended 2020 Ky. Acts ch. 64, sec. 6, effective July 15, 2020. -- Created 2018 Ky. Acts ch. 147, sec. 1, effective July 14, 2018.

Legislative Research Commission Note (7/14/2018). 2018 Ky. Acts ch. 147, sec. 2 provides that this statute created in 2018 Ky. Acts ch. 147, sec. 1 may be cited as the Uninterrupted Scholars Act of Kentucky.