§ 3244. Education of children in foster care. 1. Definitions. For purposes of this section only, the following definitions shall apply:

a. Child or youth in foster care. For the purposes of this article, the term "child or youth in foster care" shall mean a child who is in the care and custody or custody and guardianship of a local commissioner of social services or the commissioner of the office of children and family services.

b. School district of origin. The term "school district of origin" shall mean the school district within the state of New York in which the child or youth in foster care was attending a public school or preschool on a tuition-free basis or was entitled to attend at the time of placement into foster care when the social services district or the office of children and family services assumed care and custody or custody and guardianship of such child or youth, which is different from the school district of residence.

c. School district of residence. The term "school district of residence" shall mean the public school district within the state of New York in which the foster care placement is located, which is different from the school district of origin.

d. Feeder school. The term "feeder school" shall mean:

(1) a preschool whose students are entitled to attend a specified elementary school or group of elementary schools upon completion of that preschool;

(2) a school whose students are entitled to attend a specified elementary, middle, intermediate, or high school or group of specified elementary, middle, intermediate, or high schools upon completion of the terminal grade of such school; or

(3) a school that sends its students to a receiving school in a neighboring school district pursuant to section two thousand forty of this chapter.

e. Preschool. The term "preschool" shall mean a publicly funded pre-kindergarten program administered by the department or a local

educational agency or a Head Start program administered by a local educational agency and/or services under the Individuals with Disabilities Education Act administered by a local educational agency.

f. Receiving school. The term "receiving school" shall mean:

(1) a school that enrolls students from a specified or group of preschools, elementary schools, middle schools, intermediate schools, or high schools; or

(2) a school that enrolls students from a feeder school in a neighboring local educational agency pursuant to section two thousand forty of this chapter.

g. School of origin. The term "school of origin" shall mean a public school that a child or youth attended at the time of placement into foster care, or the school in which the child or youth was last enrolled, including a preschool or a charter school. Provided that, for a child or youth in foster care who completes the final grade level served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools. Where the child is eligible to attend school in the school district of origin because the child was placed in foster care after such child is eligible to apply, register, or enroll in the public preschool or kindergarten or the child is living with a school-age sibling who attends school in the school district of origin, the school of origin shall include any public school or preschool in which such child would have been entitled or eligible to attend based on such child's last residence before the circumstances arose which caused such child to be placed in foster care.

2. Choice of district and school. a. Notwithstanding any other provision of law to the contrary, the social services district, in consultation with the appropriate local educational agency or agencies, shall designate either the school district of origin or the school district of residence within which the child in foster care shall be entitled to attend in accordance with a best interest determination made by the applicable social services district or voluntary authorized agency, as defined in paragraph (a) of subdivision ten of section three

hundred seventy-one of the social services law, in accordance with the regulations of the office of children and family services. The child shall be entitled to attend the school of origin or any school that children and youth who live in the attendance area in which the foster care placement is located are eligible to attend, including a preschool, subject to a best interest determination made by the applicable social services district or voluntary authorized agency, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of the social services law, for the duration of the child's placement in foster care and until the end of the school year in which such child is no longer in foster care and for one additional year if that year constitutes the child's terminal year in such building.

b. Notwithstanding any other provision of law to the contrary, where the school district of origin or school of origin that a child was attending on a tuition-free basis or was entitled to attend when such child entered foster care is located in New York state and the child's foster care placement is located in a contiguous state, the child shall be entitled to attend the school of origin or any school that children and youth who live in the attendance area in which the foster care placement is located are eligible to attend, including a preschool, subject to a best interest determination made by the applicable social services district or voluntary authorized agency, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of the social services law, for the duration of the child's placement in foster care and until the end of the school year in which such child is no longer in foster care and for one additional year if that year constitutes the child's terminal year in such building.

c. Notwithstanding the provisions of paragraph a or b of this subdivision, a child in foster care who is moved from one foster care placement to another shall be entitled to continue to attend the school of origin or the social services district may designate that the child in foster care attend any school that children and youth who live in the attendance area in which the foster care placement is located are eligible to attend, including a preschool, subject to a best interest determination made by the applicable social services district or

voluntary authorized agency, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of the social services law, for the duration of the child's placement in foster care and until the end of the school year in which the child is no longer in such foster care placement and for one additional year if that year constitutes the child's terminal year in such building.

d. Upon notification of the designation made by the social services district for a foster care youth, the designated school district of attendance shall immediately:

(1) enroll the child or youth in foster care even if the child or youth is unable to produce records normally a requirement for enrollment, such as previous academic records, records of immunization and/or other required health records, proof of residency or other documentation and/or even if the child has missed application or enrollment deadlines during any period of placement in foster care, if applicable. Provided that nothing herein shall be construed to require the immediate attendance of an enrolled student lawfully excluded from school temporarily pursuant to section nine hundred six of this chapter because of a communicable or infectious disease that imposes a significant risk of infection of others;

(2) treat the child or youth in foster care as a resident for all purposes; and

(3) make a written request to the school district where the child's records are located for a copy of such records.

e. Within five days of receipt of a request for records in accordance with subparagraph three of paragraph d of this subdivision, the school district shall forward, in a manner consistent with state and federal law, a complete copy of the records of the child or youth in foster care including, but not limited to, proof of age, academic records, evaluations, immunization records, and guardianship papers, if applicable.

f. Where the school of origin is a charter school, the school district designated pursuant to this subdivision shall be deemed to be the school district of residence of such child for purposes of fiscal and

programmatic responsibility under article fifty-six of this chapter and shall be responsible for transportation of the child in foster care. If the designated school district of attendance is not the school district of origin, the designated school district of attendance may seek reimbursement from the school district of origin in accordance with the provisions of subdivision four of section thirty-two hundred two of this article.

g. Notwithstanding any other provision of law to the contrary, each local educational agency, as such term is defined in subsection twenty-six of section ninety-one hundred one of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, shall designate a local educational agency point of contact for children and youth in foster care. Provided that such point of contact shall not be the same as the liaison designated pursuant to the subtitle B of title VII of the McKinney-Vento Assistance Act, unless the McKinney-Vento liaison has sufficient ability to carry out the responsibilities of the McKinney-Vento liaison in addition to the responsibilities of the point of contact for children and youth in foster care.

3. Reimbursement. The tuition costs of the education of such child or youth in foster care shall be borne in accordance with the provisions of paragraph d of subdivision four of section thirty-two hundred two of this article.

4. Transportation. a. Notwithstanding any other provision of law, any child or youth in foster care who requires transportation in order to attend a school of origin designated pursuant to subdivision two of this section, shall be entitled to receive such transportation pursuant to this paragraph. The designated school district of attendance shall provide transportation to and from the child's foster care placement location and the school of origin. Any cost incurred for such transportation that is allowable up to fifty miles each way pursuant to the applicable provision of parts two and three of article seventy-three of this chapter or herein, shall be aidable pursuant to subdivision seven of section thirty-six hundred two of this chapter, provided that

the approved transportation expense shall not exceed an amount determined by the commissioner to be the total cost for providing the most cost-effective mode of such transportation in a manner consistent with the commissioner's regulations.

b. Notwithstanding any other provision of law, where any child or youth in foster care attends the school district of residence and such child does not attend the school of origin, such school district shall provide transportation to such child on the same basis as a resident student. Any cost incurred for such transportation that is allowable pursuant to the applicable provisions of parts two and three of article seventy-three of this chapter or herein, shall be aidable pursuant to subdivision seven of section thirty-six hundred two of this chapter, provided that the approved transportation expense shall not exceed an amount determined by the commissioner to be the total cost for providing the most cost-effective mode of such transportation in a manner consistent with the commissioner's regulations.

c. Excess allowable transportation costs beyond those reimbursed in paragraphs a and b of this subdivision resulting from the attendance of a child or youth in foster care shall be shared between the social services district responsible for the foster care costs of the child or youth and the designated school district of attendance equally. Excess transportation costs shall mean the difference between what a school district otherwise would spend to transport a student to his or her assigned school and the cost of transporting a child in foster care to his or her school of origin; except as otherwise reimbursed under paragraph a or b of this subdivision and as further defined in regulations of the commissioner. The school district and local social services district are expected to consider and utilize all allowable funding sources, including any available federal funds, to cover additional transportation costs. Provided however that school districts and social services districts that have written agreements relating to how excess transportation costs should be funded, that both entities have agreed to and are consistent with the requirements in subparagraph five of paragraph c of section one thousand one hundred twelve of title twenty of the Elementary and Secondary Education Act of 1965, as amended

by the Every Student Succeeds Act of 2015, filed with the department and the office of children and family services shall not be subject to this paragraph. In the absence of such a shared agreement, such school districts and local departments of social services are subject to the provisions of this paragraph.

d. Where the child has been placed in foster care in a contiguous state and has designated a school of origin located in the state of New York, the designated school district of attendance in New York state shall collaborate with the social services district to arrange for transportation.

5. Each child or youth in foster care to be assisted under this section shall be provided services comparable to services offered to other students in the school selected under this section, including the following: transportation services; educational services for which the child or youth meets the eligibility criteria, such as services provided under Title I of the Elementary and Secondary Education Act of 1965 or similar state or local programs; educational programs for children with disabilities; educational programs for English learners; programs in career and technical education; programs for gifted and talented students; and school nutrition programs.

6. The commissioner, in consultation with the office of children and family services, may promulgate regulations to carry out the purposes of this section.